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THE

NATURAL AND CONSTITUTIONAL RIGHT OF BRITONS

To Annual Parliaments, Univerſal Suffrage,

AND THE

FREEDOM OF POPULAR ASSOCIATION:

BEING A

VINDICATION

OF THE

MOTIVES AND POLITICAL CONDUCT

OF

JOHN THELWALL,

AND OF THE

LONDON CORRESPONDING SOCIETY,

IN GENERAL.

Intended to have been delivered at the Bar of the OLD BAILEY, in confutation of the late Charges of High Treaſon.

This is the fatal Engine ſo often employed by corrupt and wicked Miniſters againſt the nobleſt and braveſt patriots, whoſe laudable oppoſition to their pernicious ſchemes, thoſe Miniſters are very ready to conſtrue into Treaſon and Rebellion againſt the Prince; thereby confounding their own and the Prince's intereſt together, as if the one could not be oppoſed without the other.

PREF. STATE TRIALS.

LONDON:

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AND BY R. PHILLIPS, LEICESTER.

1795.

BRITISH MUSEUM

ADVERTISEMENT.

THE enſuing pamphlet contains only the leaſt important part, of that ſtatement for which I ſtand pledged to the public. But the great number of facts which it is neceſſary to aſcertain, the complication of matter, and the chaos of iniquitous proceedings, which it is neceſſary to reduce, not only into form, but into ſome reaſonable compaſs, rendering delay inevitable as to the "Narrative of the proceedings of Government," I ſend the Vindication, ſeparately, before the tribunal of the public; that the inveſtigation of the *principles* upon which we have acted may prepare them to appreciate with greater juſtice the *practices* by which our perſecutors have aimed at our deſtruction.

The preſent publication, as will be evident, from the form it has aſſumed, is the Defence intended to have been delivered on the trial; if I had not been perſuaded, by perſons whoſe integrity and experience gave weight to their advice, that in a cauſe of ſuch ſerious importance, not only to myſelf, but to all who were implicated in the charge, and indeed to the nation in general, I ought to reſign myſelf entirely into the hands of thoſe whoſe talents and profeſſional knowledge rendered them more adequate to the taſk of combating the hoſt of Crown lawyers that were embattled againſt us. The habitual warmth of my temper was well known; and it was obvious that the cruelty, the injuſtice, and, in many reſpects, the abſurdity of the proceed-

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ings relative to theſe proſecutions, muſt have aggravated, rather than ſoftened the contempt and indignation I had long entertained againſt the men in power. It was ſuppoſed, therefore, that I might not only advance doctrines which, though not criminal, might be hoſtile to the prejudices of the Court, but might fall into ſuch expreſſions of my feelings as might be offenſive to ſome whom it was my intereſt to conciliate.

Theſe arguments, if I had ſtood alone, would not have been ſatisfactory to my mind: for life was not all that I was anxious about. I was deſirous alſo of vindicating the principles upon which myſelf and the Society had acted, and of convincing the people how infamouſly they have been plundered of their *rights* by the pretended champions of their *Conſtitution*. But as the ſtake was not individual, I did not conſider myſelf at liberty to rely entirely upon my individual judgment. I reſigned my defence therefore entirely into the hands of Meſſrs. Erſkine and Gibbs; and I did it the more cheerfully becauſe I felt a thorough conviction that ſuch talents, ſuch legal knowledge, and ſuch integrity have rarely been united at the the Engliſh bar.

But whatever reaſons might be ſuggeſted againſt my defending myſelf at the Old Bailey, they can have no weight againſt my ſtanding in my own perſon at the bar of the public, whoſe right to the fulleſt inveſtigation of every circumſtance and every character in which they can be, by any means, intereſted, I have always maintained to the moſt unqualified extent. The ſubſtance of this Defence has, therefore, been delivered at the commencement of my preſent courſe of Lectures; and it is now ſubmitted, through the medium of the preſs, to that ſtill more general inveſtigation from which I can have no wiſh that any part of my conduct or ſentiments ſhould be protected.

DEFENCE, &c.

Gentlemen of the Jury,

IT may appear like affectation in me to declare, however truly, that though I have been ſeven months in cloſe confinement, have heard the indictment in which I am charged by name as a Traitor, have been arraigned at this bar, and am now come to plead for my life before you, yet that I cannot, even now, (ſo far as relates to my feelings) perſuade myſelf that theſe proceedings are ſerious, or that in reality I lie under the imputation of any crime. Every thing appears like the incoherency of a dream; and when I compare my conduct with my ſituation, judgment would impell me to pronounce that all is deluſion.

When I look upon theſe ſolemn preparations, and behold the crowded anxiety of the audience, it is true, I cannot but recollect that I am in a Court of Juſtice, and that a cauſe of momentous concern is at iſſue. But when I ſtrip the charges brought againſt me of the calumnious epithets and far-ſtrained innuendoes with which they are encumbered, I am compelled to conclude, either that I am not in Britain, or that what ſurrounds me is nothing but a theatrical pageantry.

If I look back upon ſo much as I can remember of the thirty years during which I have inhabited this world, I behold, it is true, ſome of thoſe little follies and intemperances which youth is heir to; but not one—I am bold to ſay it—not one of thoſe actions which in the catalogue of Reaſon are marked as crimes—or which, from moral conſiderations, I could anxiouſly wiſh undone. I have drank of the cup of adverſity, even to the dregs, without once ſwerving from the dictates of integrity; and have had the good fortune to challenge the reſpect and friendſhip of perſons whoſe ſituation in life placed them above me, and of others whoſe learning and talents will render them the admiration of ages, by the conſpicuous rectitude of my conduct. Yet here I ſtand, pleading at the Bar of the Old Bailey for my life; occupying the place ſo frequently polluted by the moſt atrocious guilt; and holding up my hand like the vileſt ruffian and murderer.

But no ruffian, however practiſed,—no murderer, however atrocious, ever came to this Bar, with ſuch a load of calumny and prejudication upon his head, as during ſix months of cloſe confinement has been induſtriouſly accumulated upon mine.—Inflammatory ſpeeches in the Houſe of Commons, and haſty reſolutions, ruſhed into in the moment of artfully-excited alarm; calumniating pamphlets, and the moſt direct and horrible accuſations in the public papers—nay the moſt unqualified prejudications from the lips of perſons in authority, have been inceſſantly employed to poiſon the public mind againſt myſelf and my fellow-ſufferers, during a ſeaſon when it was impoſſible for us to adminiſter any ſort of antidote. Every private feeling has been belied; and every

fact

fact miſrepreſented; and the individual who for years has been remarked, by *all who knew him*, for carrying the principles of humanity to an extent which the world in general is diſpoſed to conſider as romantic—with whom the life of the meaneſt inſect, not immediately hoſtile to the exiſtence or comfort of man, is regarded as ſacred and inviolable, has been publicly upheld, by name, (that he might be deprived of all chance of an impartial trial) as a ruffian inſatiable of blood, and to whom every crime was indifferent that might lead to the gratification of his ambition.

And what are the foundations—what are the reaſons for this monſtrous accumulation of hired calumny—and this jeopardy in which our lives are ſo ignominiouſly placed?—What but the activity we have diſplayed—the pains we have taken to convince the people (groaning under their miſeries but unacquainted with the cauſes of their oppreſſion) of the innumerable evils that reſult from their total excluſion, by a few monopolizing Borough-mongers, from all ſhare in the *Repreſentation*, as it is inſultingly called, of their Country? This is our crime—for a crime it is in the eyes of thoſe intereſted individuals who think the right of legiſlating for ſeven millions and an half of human beings a part of their property; and the very paroxiſm of our Treaſon is only that anxious to know how far the general deſire of reformation had extended, we conſulted in the year ninety-four upon the propriety of doing that which in the year eighty-two, many of his Majeſty's preſent miniſters actually did.

Gentlemen, if my life alone were implicated in this queſtion, I would not deign to anſwer the

charge that is brought againſt me : for that life is not worth preſerving which can be brought in queſtion, at the nod of a miniſter upon ſuch pretences. But the ſtake is deeper. Theſe trials, if they mean any thing, are the prelude only to a dreadful tragedy of deſpotiſm and oppreſſion, at the repreſentation of which, if not prevented, Britain muſt groan even to diſſolution. I ſhall, therefore, enter into the examination of the charge with an earneſtneſs of which it is not intrinſically worthy.

The crime I am accuſed of is High Treaſon—a crime the moſt penal in our ſanguinary calendar : and which not only condemns the criminal to a ſavage and tormenting death, but extends the vindictive ſpirit of the Law to his innocent and helpleſs family. The Statute I am indicted under is the 25 Edward III.—one of thoſe plain, ſimple, and conciſe ſpecimens of the juriſprudence of our anceſtors which it is *impoſſible for any honeſt man to doubt over*, or miſunderſtand. It bears its whole meaning evident upon its ſurface : no explanation can make it more obvious ; nor is it poſſible to bring any one caſe fairly within the reach of any of its clauſes that would not occur to the plaineſt capacity on the firſt peruſal. As that great Oracle of the Law, Lord Coke, obſerves—Every thing muſt be ſo plain, ſo obvious, and ſo direct as not to admit the poſſibility of defence, or it is no treaſon.

The particular branch of that ſtatute within the verge of which it has been thought moſt practicable to *drag* the projects and exertions in which I am accuſed of participating, is that of compaſſing and imagining the King's death :—that is to ſay, deſigning to put the King to death ; and concert-

certing means to carry that deſign into execution.

All other treaſons, and all other criminal intentions muſt be abſolutely *acted upon* to conſtitute the offence. But in conſideration of the ſcenes of bloodſhed, which an attempt to cut off the chief magiſtrate, is likely to produce, and the horrid baſeneſs and treachery of aſſaſſination, by which ſuch projects are generally carried into execution, the legiſlature, in this ſingle inſtance, has thought fit to declare the *proven* intention (the compaſſing and imagining) equal to the act itſelf; and to puniſh it accordingly. But then it is alſo prudently provided that ſuch intention ſhall be *poſitively and clearly proved*, by *open deed*: not by ambiguous or ſuſpicious circumſtances; but by clear, direct, and undeniable evidence; capable of no explanation, and ſtanding in need of neither commentary nor innuendo.

It is neceſſary, therefore, that an overt act, an *open deed*, ſhould be charged in every indictment for compaſſing and imagining the death of the King, and indeed for every ſpecies of High Treaſon whatever.

But what is *an Overt Act?* This the learned Preſident has told us, in his Charge to the Grand Jury, it is impoſſible to define. And this is true. But the ſame learned authority has not aſſigned the reaſon. Permit therefore, a plain, unlearned man to ſupply the deficiency. *An overt act, or open deed* is a phraſe that cannot be defined, becauſe it wants no definition. It is compoſed of the ſimpleſt elements of language. Every body underſtands the whole meaning of the word *open*, nor is any one at a loſs to conceive the meaning of the word *act* or *deed*. It is, therefore,

evident,

evident, that an overt act can be nothing elſe than an act wilfully, palpably, and directly tending to the accompliſhment of the treaſonable deſign imputed.

I do not mean that there muſt have been an abſolute attempt to ſtab, to ſhoot, or poiſon the King, to conſtitute an open act of compaſſing and imagining his death: but I do contend, that there muſt have been a poſitive conſpiracy, the avowed or *evident* object of which was the death of the King; or there muſt have been ſteps taken by the individual accuſed which obviouſly and wilfully tended to the accompliſhment of that criminal intention.—The late infamous and ridiculous aſſaſſination plot (for example) ſo wickedly *fabricated*, ſo *critically divulged*, and ſo *politically believed* by a certain circle; notwithſtanding its monſtrous abſurdity and impracticability, would, if there had been any truth in it, have been as clear and evident an open act of treaſon, from the ſteps ſaid to have been taken, as if the dart had been poſitively buried in the breaſt of the Sovereign: for though it is true (and though, in all other caſes, the Laws of England have admitted this as a ſufficient plea) that a man may repent before the deed is done, and that fear, or a conviction of the impracticability of his undertaking may perſuade him to deſiſt; yet there ought to be no door left open for monſters who could meditate ſo diabolical a project; nor ought the life of the chief magiſtrate in any country to be ſo looſely guarded that the dagger muſt be abſolutely lifted before the law is at liberty to interpoſe its ſhield. No, Gentlemen; guard the life of the Sovereign as jealouſly as you pleaſe. Let the fences of the law be thick and ſtrong around him. Such jealouſy has my applauſe; and

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were I conſcious of having ever attempted (even in the precipitancy of intemperate paſſion) to overleap theſe fences, inſtead of ſtanding thus bold and confident before you, creſt fallen and mute I would await your ſentence, and pay, without a murmur, the heavy but juſt penalty due to the violated laws and endangered peace of my country. For, whatever ſpeculative opinions I may entertain, no *ſpeculation* was ever yet preſented to my mind which I would attempt to advance by crimes and violence. I reſpect the peace—I reſpect the happineſs of ſociety—that peace without which virtue can never flouriſh—that happineſs without which Liberty itſelf would be but an empty name. And I call upon this tribunal, I call upon my country at large, I call upon that poſterity whoſe impartiality will do juſtice to my memory, to ſearch with ſcrutinizing exactneſs into the evidence of my motives and conduct, and ſee whether the promotion of that peace and happineſs has not been the principal, if not the ſole motive of that conduct the cruel and wicked miſrepreſentation of which has brought me here.

But the abſurd and inexplicable doctrine of conſtructive treaſon is ſo far from being an additional ſhield to the Royal Perſon, that Britiſh hiſtory informs us that not one of thoſe ſovereigns whoſe wicked miniſters have broached this deteſtable doctrine have reigned in peace and happineſs among their ſubjects; and that a majority of them, in conſequence of theſe doctrines, have come to an untimely end. I appeal, among other inſtances, to the hiſtories of the turbulent and diſaſtrous reigns of Richard II. Edward II. Richard III. Henry VIII. Charles I. and II. and James II. during all which the diſcontent and violence

of the people roſe in exact proportion to the violent and irrational principles of criminal juriſprudence which the evil Counſellors of thoſe Princes ſucceſſively adopted. Nor were the fatal conſequences confined to the deluded Sovereigns. The Miniſters who counſelled, and the Judges who conducted theſe unjuſt and cruel proſecutions were, moſt of them, the victims alſo of their miſtaken policy; being either baniſhed, executed, or torn to pieces by the rage of an injured people, whoſe oppreſſions became in time too heavy to be endured.

O deluded and impolitic rulers of the earth, when will ye open your ears to the warning voice of experience?—When will ye have the prudence to regulate your conduct by a perpetual remembrance of this incontrovertible axiom—That there is no ſtability for power—no ſecurity for grandeur but in a temperate and inflexible adherence to the immutable principles of Truth and Juſtice?

It is by an adminiſtration of the known laws of the country, by theſe immutable principles alone—not by the underhanded tyranny of *ex poſt facto* interpretations, the inexplicable theories of conſtructive treaſon, the vague and unmeaning cant of exiſting circumſtances, and the endleſs train of "Doctrines faſhioned to the varying hour," that the ſafety of the King, and indeed of every individual throughout the country, can be upheld. For if every intelligible diſtinction is thus to be broken down—if every difference of political opinion—every ſteady and conſcientious oppoſition to the views and intereſts of a miniſter is to bring the individual, dragged like a felon to this bar—If the conſcientious Aſſociator (however miſtaken in his principle) merely for diſſeminating his

his opinions, and endeavouring to collect the ſentiments of the nation on the ſubject of Reform, is to be indicted for this unheard of treaſon—" Conſpiring to ſubvert the Monarchy," and placed in the ſame ſituation of diſgrace and peril as the moſt vile and execrable aſſaſſin, what muſt be the conſequence?—Who does not perceive that the great ſhield by which the life, not only of the Sovereign, but of all human ſociety is protected—the ſhield of moral diſcrimination, is hewn away? and that we muſt preſently be expoſed to that horrid ſtate of ſociety—or rather *anarchy*, which even now prevails in ſome deſpotic ſtates of Europe, in which it is ſafer to *ſtab* than to *reaſon*; becauſe the former can be practiced with greater *ſecrecy*, and therefore, with greater *impunity* than the latter?

In order to give ſome colour to proceedings thus fraught with moral and political calamity, you have been told by the Crown Lawyers, in language equally ambiguous and ſophiſtical, that " He who does, an act, meaning to do it, which " *may endanger* the King's life, compaſſes and " imagines the death of the King." This aſſertion, though apparently ſuggeſted by the language of the Lord Preſident, that " *Overt Acts* are all the " *poſſible* means which *may* be uſed in proſecu- " cution of the end propoſed," I ſhall take the liberty to examine: becauſe upon this ſophiſm depends the whole pernicious doctrine of Conſtructive Treaſon in general, and all that is ſerious in this indictment in particular.

If this doctrine went no farther than to aſſert, that every ſtep proved to have been taken by the accuſed party for the purpoſe of producing the King's death, is in ſuch party an overt act of this

ſpecies

ſpecies of treaſon, no one would attempt to controvert it. It would be ſelf evident: and the very ſtatement would be ſuperfluous. But if nothing more had been intended, neither myſelf nor my colleagues could have been placed at this bar: for the ſubſtantive project charged in the indictment is one in which our accuſers themſelves have formerly co-operated: nor could human intellect conceive, however blinded by prejudice or miſled by paſſion, that a few idle ſpeeches and ridiculous toaſts (the forgeries chiefly of thoſe profeſſional ſpies whoſe audacious perjuries have inſulted the juſtice and degraded the character of their country) were ſufficient to fix a treaſonous intention upon actions otherwiſe innocent—much leſs to extend that criminality to every individual with whom the perſons they were alledged againſt might happen to be politically connected.

It was evidently the intention of the Crown Lawyers, that the fulleſt latitude of interpretation ſhould be given to the ambiguous axiom. For taking for granted, in the firſt inſtance (what their own witneſſes have ſufficiently diſproved) that the propoſed Convention was to aſſume the ſupreme authority, we are led, ſtep by ſtep, into the very centre of the inextricable labyrinth of Conſtructions: and at laſt we are gravely told, that although "it had been intended to have retained the name "and office of King in the perſon of the preſent "King, creating, however, a new legiſlature, to "act with him,"—"ſtill ſuch a conſpiracy is an "overt act in the true conſtruction of law, and "high treaſon in compaſſing the King's death."

As the ſuggeſted purpoſe of aſſuming any degree of ſovereign or legiſlative authority, has been contradicted by the moſt unequivocal teſtimony, I ſhall

ſhall not now contend that the neceſſity of appealing to arguments ſo futile and abſurd is itſelf a ſufficient proof that the pretended treaſon of *ſubverting the Monarchy*, as it is called, is no treaſon at all by the law of England. It is more to my purpoſe to ſhew you the precipice to the brink of which theſe legal ſophiſters have conducted you: for if it be true, that to ſeek to alter or ameliorate the laws and conſtitution of your country is high treaſon, becauſe the people may *poſſibly* become unreaſonable in their demands, and the government may *poſſibly* oppoſe their wiſhes, and a conteſt may *poſſibly* enſue, in which the King may *poſſibly* be depoſed or ſlain, then farewell at once to every boaſted exerciſe of reaſon!—farewell to political improvement!—farewell even to the hope of regenerating the venerable inſtitutions of our anceſtors, or preſerving the mouldering fragments that yet remain!—If it is high treaſon for the people to lift up their voices when they conceive themſelves oppreſſed by partial and arbitrary laws—If it is high treaſon to ſeek for political amelioration by impreſſing the legiſlature with an aweful ſenſe of the collective wiſhes of the people, in what but in name conſiſts the difference between the *free-born Briton* and the *Aſiatic ſlave?* And if he who does an act, meaning to do that act" (though without any proven intention as to the conſequence) " which may" (ultimately or collaterally) " *endanger* the King's " life," is to be hanged, drawn and quartered, by virtue of a legal quibble, which he never heard of, as having " compaſſed and imagined the death " of the King," what valuable life can be ſecure? CONVENTION is at preſent the *war whoop* of the tribe in power. But ſhould they ſucceed in their

their ſanguinary purpoſe, who can anſwer for the cry that may next be raiſed, or the victims that may be hunted down?—For mark their chain of reaſoning, and tell me where is the individual of active mind—(and it is only by the collision of active minds that ſociety ever was, or ever can be benefited!)—Where is the individual of active mind who has never been engaged in ſome project that might, by the circuitous ſophiſtry of Crown Lawyers, be tortured into a charge of treaſon, as plauſible as that upon which you are now to decide?

A Convention in France, you are told, overthrew the Conſtitution, and brought the King to the ſcaffold.—This by the way is not true. The Conſtitution of France was totally overthrown before the National Convention was called; and the doom of the unfortunate Louis was ſealed inevitably by the battle of the Thuilleries; if indeed it was not ſealed, at an earlier period, by his own raſh hand; when, by written inſtrument, he declared himſelf a hypocrite and a perjurer.

Let us, however, for a moment, grant the premiſes. "A Convention in France, we are told overthrew the Conſtitution and brought the King to the ſcaffold; therefore a Convention *might poſſibly* overthrow the conſtitution of this country: and when the conſtitution was once overthrown, the King *might poſſibly* be brought to the ſcaffold, and Anarchy and Maſſacre *might poſſibly* ſtalk thro' our ſtreets; and as it is *poſſible* that theſe events *might* follow, it is *possible* theſe men, when they conſulted about aſſembling a Convention, *might* have theſe treaſonable objects in contemplation; "therefore it is a caſe of no difficulty: It is the "cleareſt act of compaſſing the King's death!"

Immortal

Immortal memory of our brave and ſimple anceſtors! do I ſtand here to defend my life, upon a charge of High Treaſon, againſt this monſtrous train of poſſibilities, conſtructions and improbable contingencies?—and am I ſtill in Britain?

But even this reaſoning, ſtrained and remote as it is, will not anſwer the purpoſe of our proſecutors. The parallel will not hold. For granting (which I never can—for I can trace them to another ſource) that all the exceſſes in France reſulted from calling the Convention, the concluſion does not follow. The caſes are eſſentially different; the conſequences, therefore, never could have been the ſame: nor is there a man, I am confident, in the whole liſt of proclaimed conſpirators who was mad enough to expect, or to wiſh that they ſhould.

The Convention in France was a thronged repreſentation of the aggregate power and population of the country: it had in its boſom ſeveral of the moſt powerful and wealthy individuals remaining in the nation: the influence of theſe was conſiderably encreaſed by the baſe and cowardly conduct of the great body of the ariſtocracy, who after having, by their evil councils, plunged the King in inextricable difficulties, and brought upon him the general indignation of the people, ran away, and left the victim to his fate.

Such was the National Convention of France! —a Convention choſen in the very ferment of popular rage and apprehenſion: when all the conſtituted authorities of the country were diſſolved; when anarchy was already introduced; and when the preſſure of external danger, and the intrigues of internal factions, had produced ſuch a delirium of the public mind, as could be ſatisfied with nothing

thing but the moſt violent meaſures, and was therefore likely to fix its election on men of the moſt violent character.

Gentlemen,—If I were a man diſpoſed to conceal my real ſentiments, it is not in my power. The arm of authority—pardon me if I ſay the *ruffian* arm, has broke into the moſt ſecret receſſes of my meditations. The private correſpondence, the labours, and the reflections of my life have been expoſed to the examination of my perſecutors. Out of that maſs of evidence which to them muſt have revealed the real ſentiments and feelings of my heart, every thing that could diſprove this monſtrous charge, refute their calumnies and impreſs you with a favourable opinion has been induſtriouſly ſuppreſſed; and every thing that might appear injurious to my character as induſtriouſly brought before you. From part of this evidence it appears, and I do not wiſh to deny, that there have been moments when credulity has fluctuated as to the truth of thoſe dreadful narratives which have been repeated in this country with ſuch inſidious exultation, the extent of the exaggerated cruelties, and the provocations and neceſſities under which they were committed. But whatever ſpeculations I may have indulged upon this ſubject (and I am yet to learn that to ſpeculate on foreign occurrences, is a crime) I always have admitted—I always have inſiſted (and I call upon every individual who is at all acquainted with my character and ſentiments to ſtamp the broad ſeal of infamy upon my forehead if I ſpeak not truly) I always have inſiſted that many actions have been perpetrated in France, which no good mind can contemplate without horror. But it was not the Convention of France that begot the anarchy in France;

France; but the anarchy that begot the convention: nor could ſuch a ſet of men as the leaders of *one party* in that convention, have concentrated the ſuffrages of the people in any poſſible ſtate of ſociety but that in which the country was plunged at the time of their election.—They were men whoſe ferocious paſſions could have been engendered only by the licentious barbarity of the old deſpotiſm, and hatched in the ferment of an unprecedented revolution. Such, however, as they were they ſeem to have been calculated for the deſperation of the times; and were hailed, like thunder ſtorms and convulſions of nature, which men gaze and tremble at, but whoſe explosion is neceſſary to clear the clouded and infectious atmoſphere.

Theſe men have "ſtalked their hour upon the ſtage." They have performed their part in the moſt eventful drama ever exhibited on the theatre of the world; and their exit has been ſuch as is little calculated to encourage imitation: for, thanks to the workings of Eternal Juſtice, Demogogue by the hand of Demogogue, they have fallen—the unpitied victims of their own violent councels; and have yielded their power and their popularity to leaders of more humane principles; who will, in their turn, I hope and truſt, as the popular ferment more and more ſubſides, and the danger of foreign interference retreats to ſtill greater diſtance from their doors, be peaceably ſucceeded by others ſtill more conſpicuous for the mildneſs of their ſentiments and the humanity of their meaſures.

If this outline of the hiſtory and compoſition of the French Convention be juſt (which I believe it is)—if the cauſes of its exceſſes are accurately traced (and I have laboured to do it with an impartial

partial hand) I ſhall be juſtified in concluding, and you Gentlemen of the Jury, will be compelled to join in the concluſion—that even if the meeting in queſtion had been intended to be a National Convention, yet no deciſion or preſumption as to its eventual conduct could be drawn from what has occurred on the Continent. It is not the word Convention that conſtitutes either the crime or the power. Theſe, in the inſtance we have witneſſed, reſulted from local circumſtances peculiar to the French nation; and, in ſuch aſſemblies, always muſt depend upon the ſtate of ſociety, and the weight and current of popular opinion, at the ſeaſon of their formation.

But this is an argument totally ſuperfluous on the preſent occaſion.—The meeting meditated, but never determined upon in England, has been diſtinctly proved to have been in its very formation a mere convention of Delegates from the different patriotic ſocities, for the purpoſe of comparing their ſentinents upon the neceſſity of Reform, and giving weight, by their co-operation, to any applications that might be made to Parliament or the Throne.

The idea that it was to act either as a National Convention, or a Conſtituent Aſſembly was never ſtarted in our deliberations; nor is the leaſt trace of it to be diſcovered in the evidence before you.

Compare then the gigantic fabric I have already delineated with the pigmy ſtructure likely to have been moulded by the hands of a few powerleſs ſocieties of tradeſmen and mechanics, aſſociated with two or three gentlemen of private fortune, whoſe whole eſtates would ſcarcely furniſh the luxuries of a Prime Miniſter's table, and then tell me whether it is poſſible that any body could be

be ſo mad as to meditate or apprehend ſimilar effects from means ſo immeaſurably diſproportionate.

Gentlemen, I have not been in the habit of eſtimating people by their rank and fortune; nor ſhall I, in this ſituation, ſo far depart from the independency of my feelings. Such men have as much right to meet, confer, and enquire as the greateſt and richeſt monopoliſts in the country. But that a little knot of individuals like theſe ſhould be objects of jealouſy to government, any farther than as their aſſociation might provoke enquiry, and lead to the detection of abuſes which thoſe who reap the profit may wiſh to cover with a veil of myſtery, is a phenomenon unparalleled in Britiſh Hiſtory. That fifty or ſixty ſuch men aſſembled in convention (even if ſuch convention had poſitively been determined upon and called) ſhould be regarded as engines formidable enough, in defiance of the whole wealth, power, conſtituted authorities, and military eſtabliſhments of the country, "to pull down and to "ſubvert from its very foundations, the glorious "fabric of the Britiſh Monarchy," annihilate a rich and powerful nobility, overthrow the charters inſtitutions, and labours of ages, and bring the ſovereign to the ſcaffold, is an abſurdity ſo monſtrous, that if it ever did enter the brain of any one of the ſuppoſed conſpirators, not the ſtrong holds of the Tower, nor the cells of Newgate, ought to be his puniſhment, but the ſtraw and regimen of Bedlam, where he might meditate at leiſure over his moonſtruck fancies; and indulge his frantic ſpeculations without injury to mankind,

And yet the principal overt act charged in this indictment, and that out of which the reſt in a

manner grow, is conſpiring to call ſuch convention, for the purpoſe of overthrowing the monarchy and conſtitution of the country.

How then is this to be ſolved? By what clue ſhall we unravel this political myſtery?—Were our proſecutors totally unacquainted with the favourable circumſtances that have come out in evidence? Certainly not. Had I acceſs to the maſs of papers which I know they have been in poſſeſſion of, I could produce from them demonſtrations ſtill more unequivocal (if more unequivocal can be) that the objects of the purpoſed Convention were no other than I have expounded. —I could produce from them letters explicitly announcing theſe objects; and one, in particular, from a Society in Scotland, offering to ſend a Delegate, but informing us that other Societies in the ſame town declined, *becauſe the object of the Convention* WAS *to petition Parliament*: a meaſure they did not approve.

But it ſhould appear that our proſecutors are of opinion their popularity will appear greater, ſo long as public opinion can be repreſſed, than when the general voice is permitted to give notoriety to the feelings of the people. A falſe popularity was therefore to be ſupported at the expence of every thing dear to liberty and morals. Political herely was to be hunted down by a herd of ſpies and inquiſitors; and all who preſumed to differ from the orthodox faith of the cabinet, were to be terrified by birds-eye proſpects of proſcriptions and *auto-de-fees*. The ſpirit of the nation was to be inſulted by the moſt partial adminiſtration of juſtice; and while libels the moſt ſcurrilous, and the utmoſt rancour of perſonal abuſe were not only tolerated, but publicly patroniſed,

niſed, in thoſe who poured forth their venom againſt the friends of liberty; even argument and enquiry, when directed againſt eſtabliſhed abuſes, have been perſecuted with the moſt rancorous avidity. Every liberal ſpeculation has been branded and puniſhed as a crime; nor is it ſafe to vent an opinion, even upon tranſactions in a neighbouring country, unleſs to exaggerate the wild exceſſes of emancipated ſlaves, and lament the fallen glories of the ancient deſpotiſm. And now as the final conſummation of this ſyſtem of terror and impoſition, men who conſulted together on the propriety of eſtimating, by a Convention or meeting of Delegates from different ſocieties, the extent to which the deſire of parliamentary reform had extended are indicted for High Treaſon.

Such are the ſanguinary extremities to the brink of which this harraſſed nation is conducted by the miſtaken principles and ſelfiſh paſſions of a few ambitious men, who finding the ſuppreſſion of public opinion eſſential to the preſervation of their power, and the perpetuity of profitable abuſes, have contrived to render even thoſe who have an intereſt in the truth, participators in their alarm at the progreſs of inveſtigation. From *proſecution for libel*, they have proceeded to *tranſportation for ſedition*; and now, as the grand climax of political expediency, ſixteen or eighteen innocent and virtuous men are to be hanged drawn and quartered, to aſcertain, by the *experiment*, whether or not it is High Treaſon to endeavour to collect the opinions of the people, or oppoſe, in any manner, their deſtructive meaſures.

But it was obvious to the proſecutors that the mere circumſtance of calling, or conſulting whether it would be proper to call a Convention, could

not by any poſſible conſtruction be conſidered as an overt act of Treaſon. They could not but recollect that, in Ireland, they had very lately cauſed an act of parliament to be paſſed to prevent a convention from aſſembling there; and that conſequently that which required an expreſs act of parliament to make it treaſonable in Ireland could not be treaſon in England, whoſe laws and conſtitution are the ſame, without a ſimilar interference of the legiſlature. Neither could they be blind to the abſurdity of ſuppoſing it High Treaſon in England merely to conſult and meditate upon the expediency of a meaſure, which it was only ſedition to carry into actual effect in Scotland. It is likely alſo that our perſecutors had not quite forgot (tho' the Right Honourable Chancellor of the Exchequer found ſome difficulty in remembering it) that, about twelve or thirteen years ago, ſeveral of themſelves actually attended a Convention, or meeting of Delegates, without ever dreaming of indictments for High Treaſon.

It is true the learned judge has demanded—Suppoſe we ſhould be of opinion that the proceedings in 1782, were treaſonable—what advantage could you derive from the precedent? To this I anſwer—None: I am afraid. We could lament, indeed, the verification of an old and trite obſervation, "That laws are cobwebs which enſnare ſmall flies to their deſtruction, but let waſps and hornets through:" but this would be poor conſolation. This ſuppoſition, however, never ſuggeſted itſelf in the firſt ſtages of theſe proceedings; and the plain matter of fact not being ſufficient, it was neceſſary (for the *firſt time*, and in direct violation of every principle and explicit regulation of Engliſh law) in an indictment for High Treaſon to inſert an innuen-

nuendo.—I ſay an innuendo, for what is it but an innuendo to affirm a concealed and improbable purpoſe as the object of any meaſure, when an avowed, notorious, and practicable object preſents itſelf at once to the mind.

Obſerve, Gentlemen, the curious mode of reaſoning by which this innuendo is ſupported. The charge againſt us is compaſſing and imagining the King's death: the principal overt act is conſpiring to call a Convention: but, in order to make this an *open* act of High Treaſon, it was neceſſary to take for granted a *ſecret* intention "a purpoſe hidden under the veil" of depoſing the King, and bringing him to death and deſtruction, by means of this Convention: although it does not appear that any ſuch deſign or purpoſe was ever declared, inſinuated, or hinted, at any meeting or conſultation of theſe tremendous Conſpirators whatever.—Even taking it for granted, which no man, conſidering the characters of the witneſſes, can be credulous enough to do, that all which has been ſworn is fact, yet nothing like a ſingle treaſonous expreſſion, *ſpoken in proſecution or furtherance of any deſign, or in relation to any deſign*, (which are the indiſpenſible requiſites to make words admiſsible evidence in caſes of Treaſon) appears againſt any one of the ſuppoſed conſpirators: notwithſtanding that the total want of caution in the generality of them, appears to have been the moſt criminal trait in their characters. A violent word in the moment of irritation and debate;—a ridiculous toaſt, perhaps ſuggeſted by theſe ſpies themſelves, and repeated in the hour of conviviality, without thought or meaning—theſe are the only pretences for fixing criminality of intention upon aſſociations and projects in

themſelves of the moſt innocent—I believe of the moſt laudable nature.

Thus then an hypotheſis is firſt aſſumed, and a fact is afterwards aſſerted in ſupport of that hypotheſis; but before the fact itſelf can be applied to the ſubject in debate, it is neceſſary to take for granted, as already proved, the very concluſion as a foundation for which the fact was itſelf aſſerted.

If this mode of proceeding be countenanced; if this retrograde and inexplicable reaſoning be adopted, it would ſave trouble hereafter if his Majeſty's miniſters would hang up, without ceremony, all perſons who preſume to cenſure or oppoſe them, and then ſet their Attorney General to diſcover, and *their* judges to explain, the crimes for which they ſuffered. This would be quite as conſiſtent with reaſon and juſtice as upon mere *ex parte* evidence (and even before the examination of that was concluded) to pronounce a ſolemn *extra judicial ſentence* of High Treaſon againſt eighteen or twenty men, and then, after five or ſix months deliberation, indict them for a conſpiracy to kill the King, for no other reaſon than becauſe they could find nothing elſe to charge againſt them.

Does not this—I aſk you ſeriouſly gentlemen—does not this look as if Miniſters having predetermined to hang us, had reaſoned the matter thus?—

Theſe men certainly have not levied war againſt the King; neither have they defiled his bed; we cannot find that they have adhered to his enemies within, or held treaſonable correſpondence with thoſe without the realm; there is but one deſcription more in the ſtatute of Treaſon; let us indite

indite them therefore, without further enquiry, for compaſsing and imagining the King's death.

Let me conjure you, Gentlemen, by all that is dear to Britons, reflect what muſt be our ſituation, if juries can be induced to countenance ſuch practices! Think not that it is me you are trying; you are ſitting in judgment upon the liberties of your country. The whole preſent generation is intereſted—Poſterity is intereſted in your verdict; and the blood of your children, and your children's children may lay upon your heads, if party prejudice, the bias of intereſt, or the deluſions of political partiality draw you from the ſtrait line of duty.—Remember that the queſtion you have to try is whether I have conſpired to kill the King: for that is the treaſon I am charged with. If you are convinced by the evidence that ſuch was the object of our conſpiracy in general, and of myſelf in particular, pronounce your verdict; and may your conſciences never be troubled at the recollection. But if no ſuch deteſtable deſign is proved; then whether you are convinced that we meant to call a convention, or whether you are not; whether you approve our political ſpeculations, or deteſt them; are circumſtances not to be weighed for a moment. The crime charged againſt me is not proved; and you muſt pronounce—NOT GUILTY.

Treaſon, Gentlemen!—A meeting of delegates from different ſocieties to conſult on the propriety and means of Parliamentary Reform, High Treaſon? Never was ſuch a charge built upon ſuch foundations; nor upon ſuch foundations can it now be ſupported unleſs we are indeed ſunk into that *abyſs* of ſlavery that the mere application of

the word traiterouſly, from the lips of a Miniſter, or an Attorney General, to things which never before were Treaſon, ſhall be admitted immediately to metamorphoſe them into that higheſt of all political offences.

But the very maintenance of ſuch a doctrine is an act of the Higheſt Treaſon againſt the common underſtanding of mankind; and to ſanction it by the verdict of a jury were a ſacrilege againſt the ſacred Temple of our Freedom, which no temptation could excuſe, no repentance could waſh away. It were indeed an aſſaſſination of that conſtitution you are empannelled to defend—of that liberty which our anceſtors (like the pelican) have nouriſhed from their own bleeding boſoms. As Lord Treaſurer Danby formerly exclaimed, defending himſelf againſt a frivilous charge of accumulative and conſtructive treaſon—"If after ſo many heats "and diſputes which our anceſtors have had with "the Crown about their liberties, this doctrine "ſhould be admitted for law, we would ſeem to "endeavour, as much as in us lies, to be our "own *Felo's de ſe.*" [*St. Tr. vol.* 2. *p.* 741.]—Yes, Gentlemen, you, the Jurors of Britain, are the ſoul—the vital ſpirit of what yet remains of Britiſh Liberty. And ſhould you (overawed by power, or miſled by prejudice) be rendered inſtrumental to this encroaching ſyſtem of terror and oppreſſion it were indeed a *ſuicide* of the worſt deſcription.—But it cannot be. Your eyes are not cloſed againſt the conſequences. You cannot but foreſee the ruin and deſolation that muſt inevitably follow if Miniſters and Crown Lawyers are ſuffered to alter the law of treaſon at their plea-

pleaſure, by newfangled conſtructions and circuitous inferences. As the ſame Lord Treaſurer obſerves, "If it ſhould be found that this "will hold water, and ſhould be maintained for "good doctrine; truly I think there would need "no other arbitrary power to make men quit this "country. For, as to any man's liberty, it might "be equal to him whether he lived under the "French government, or under the Grand Signi-"or's government, as under a government ſo ar-"bitrary as this doctrine alone would make ours." *Ib.* 752. What monſtrous extent is there to which it may not ſpread?—How effectually will all the barriers erected by our anceſtors for the ſecurity of our lives and liberties be thrown down? and how abſolutely will it be in the power of miniſters to deſtroy every virtuous individual who ſhall be obnoxious to their caprice, or a bar to their ambition?

Let me then impreſs upon your minds the duty and the neceſſity that you ſhould both diſcern the truth of the evidence, and diſtinguiſh truly what the actions *are* (if proved) and not what they are *called* by the intemperance of our accuſers.

For this reaſon it was that our anceſtors—keeping a jealous eye upon proſecutions for High Treaſon, and well knowing them to be "the fa-"tal engines ſo often employed by corrupt and "wicked miniſters againſt the nobleſt and braveſt "patriots, whoſe laudable oppoſition to their per-"nicious ſchemes thoſe miniſters are very ready "to conſtrue into treaſon and rebellion againſt "the Prince." [*Pref. St. Tr. p.* 4.]—For this reaſon it was that our anceſtors, by a variety of judi-

judicious regulations, and particularly by that excellent (though perverted and evaded) act, the 25 Edward III. took particular care to provide that the *ſpecial matter*—the *overt act* ſhould be laid before the jury, "to the end they may be ſatisfied "*whether the charge have its right denomination.* "Otherwiſe it were to no purpoſe to deſire ſpe- "cial matter, unleſs it were to ſee whether the ſpe- "cial matter alledged be what it is called. As "for example, if a man were accuſed of having "traiterouſly paſſed the river in a pair of oars; "this is ſpecial matter and ſtiled treaſon, by in- "ſerting the word traiterouſly;" [*St. Tr. vol.* 2. *p.* 730.] yet, though the fact ſhould be eſtabliſhed beyond contradiction, you would not, therefore, by finding a verdict of guilty, ſubject the priſoner to all the penalties of High Treaſon for paſſing the river in a boat. And yet I can ſhew as many acts of Parliament and maxims of our Common Law and Conſtitution declaring it High Treaſon to paſs the river with a pair of oars, as the Crown Lawyers, with all their laborious erudition can produce declaring it High Treaſon to conſpire to aſſemble a Convention.

I have quoted this part of my argument principally in the words of the Lord Treaſurer Danby, becauſe it gives me an opportunity of obſerving how that nobleman, after having (like all the ſucceſſive miniſters of Charles II.) done whatever lay in his power to injure the cauſe of Liberty, and pollute the ſtream of Juſtice, for the purpoſe of arbitrary uſurpation, was himſelf obliged to ſtruggle with the injuſtice he had connived at, and appeal to thoſe ſtrong and original principles of liberty which

which his own adminiſtration had ſo much diſcountenanced.—

" For in theſe caſes
" We ſtill have judgment here; that we but teach
" Bloody inſtructions, which, being taught, return
" To plague the inventors: this evenhanded Juſtice
" Commends the ingredients of our poiſon'd chalice
" To our own lips."

But what are the pretences for concluding that the Convention was to have brought the King to the ſcaffold? Why, truly, one of the reaſons for this monſtrous concluſion is that a committee had been appointed as a preliminary ſtep to *watch* the proceedings of the Parliament and Adminiſtration. And yet, till the publication of the reports of the ſecret Committee, this circumſtance was univerſally conſidered, and muſt have been conſidered by every individual at all acquainted with the Laws and Conſtitution of the country, to be as innocent an act as ever entered into the imagination of man.

If this is denied, ſhew me the act of Parliament that makes it criminal—that commands the people of Britain to ſhut their eyes againſt the political tranſactions of their country; and declares it high treaſon to ſcrutiniſe the conduct of their public ſervants and repreſentatives. Turn me to the article in Magna Charta—to the page in the Bill of Rights—to the maxim of the Common Law (that ſtill ſurviving fragment of the free and glorious Conſtitution of our Saxon anceſtors!)—Turn me, I ſay, to the article, the page, the maxim which prohibits the native of this iſland from watching with jealous circumſpection the proceed-

ings

ings of thoſe functionaries whoſe conduct, in proportion as it is regulated by virtue, or influenced by corruption, may produce the happineſs, or the miſery of every individual in the ſtate.

Gentlemen—There is no ſuch article, no ſuch maxim, no ſuch paſſage in any of the conſtitutional authorities of this country. Thoſe brave anceſtors who bled ſo freely for the liberties of Britain, have not left it now to be diſputed, whether we have a right to inveſtigate thoſe meaſures for the ſupport of which our purſes muſt be drained and our veins exhauſted. The univerſal right of political inveſtigation was ratified when repreſentation was eſtabliſhed. The queſtion now before you is whether you will repeal thoſe ſacred decrees of liberty and juſtice, ſealed by the blood of our anceſtors, and erect again the golden calf of paſſive obedience, which after repeated ſtruggles for the eſtabliſhment of ſuch an abſurd idolatry, was at laſt bruiſed to pieces by the ſtrong mace of the Revolution in 1688, and ſcattered over that ocean which happily *ſeparated* the country from the exiled race of the *Stewarts*.

But mark, Gentlemen, I pray you, the *ſteps* by which theſe oracles of the law, are artfully conducting us to that *abyſs* of ſlavery, where every thing is to be treaſon that the miniſter chuſes to call ſo. The 25 Edward III. in plain and inflexible terms, lays it down that it ſhall be High Treaſon to compaſs and imagine the King's death; but provides that the deſign to levy war, muſt be carried into execution to conſtitute the treaſon. The reaſon for this diſtinction is obvious. Our blunt anceſtors had ſome regard to diſcrimination.

They

They could not bear to put the bold and open warrior, even though engaged in rebellion, upon a level with the ſly and diſtardly aſſaſſin, who aimed by ſecret plots and conſpiracies at the Sovereign's life. They knew alſo (by experience) that rebellions, even when ſucceſsful, do not inevitably tend to the King's deſtruction; that they have ſometimes placed him even in a more reſpectable and happy ſituation: nay, that it had ſometimes even been neceſſary for the ſubject to take arms to redeem him from the tyranny and uſurpation of a miniſter, who, by filling all the poſts of truſt and authority with his immediate dependents, had rendered himſelf alike deſpotic maſter of the people and the prince. It was, therefore, that a line of juſt diſtinction was drawn between the aſſaſſin and the rebel, and that even the intention was puniſhed in the one, while nothing ſhort of abſolute action could drag down the penalty upon the head of the other.

Lawyers, however, (a race of men who have ſpread more devaſtation through the moral world than the Goths and Vandals, who overthrew the Roman empire!)—ſoon began to aſpire to favour by extending the narrow limits of the law of treaſon. It was declared that a conſpiracy to depoſe the King, to ſeize his perſon, or to put him under bodily reſtraint was compaſſing and imagining his death: for ſay they, "Experience has taught us "that the diſtance is generally ſmall between the "priſons of princes and their graves."

This was certainly ſome violation of the ſimple meaning of the ſtatute, and evinced a palpable diſregard to the reaſons which dictated the diſtinction. Nevertheleſs, as the reaſoning is plauſible,

and

and the authorities that ſupport it are reſpectable, it has met with general acquieſcence. But the door of conſtruction thus opened, the next ſtep was to declare every *conſpiracy* to levy war for any purpoſe of *general concern* (as to remove evil counſellors, or to alter whatever the government for the time being choſe to conſider as fundamental laws) an act of High Treaſon. Such conſpiracy could not, it is true, be made an overt act under the clauſe of levying war—the jealous caution of our anceſtors having provided that the war muſt be actually levied to conſtitute the Treaſon. But the ingenuity of Judges and Attorney-Generals overleaped the difficulty, and diſcovered that a conſpiracy relative to one diſtinct ſpecies of treaſon, though not an overt act of that treaſon, was an overt act of another diſtinct ſpecies.

Common ſenſe revolted at this: but the general and juſt abhorrence of tumult and violence interpoſed; and the friends of peace and order connived at the abſurdity.—Fatal deluſion;—If the ſimple proviſions of the 25 Edward III. were not ſufficient—if the altered ſtate of ſociety had done away the reaſons for the ancient diſtinction, and rendered it neceſſary that lurking aſſaſſination and open reſiſtance ſhould be treated with equal ſeverity, ſome law for that purpoſe ought to have been provided: for the country that tolerates conſtructive treaſon, makes its judges its legiſlators—puts the power of altering the laws at will into their hands, and eſtabliſhes a tyranny againſt which no virtue, no prudence, no degree of knowledge is a ſufficient ſhield. Rome fell into deſpotiſm when the legiſlative and judicial power were united;

ted ; Athens bowed to the duſt, when the ſame individuals were her judges and her rulers ; nor am I certain that I am not, at this moment, performing the funeral obſequies of Britiſh Liberty. For mark the ſtep that now is taken—An alledged conſpiracy for the purpoſe not of depoſing the King ;—not of impriſoning the King—not of putting bodily reſtraint or coercion upon him—but for the purpoſe of overawing parliament (as it is ambiguouſly called) and ſo, by aſſumed conſequence, laying the *mind* of the King under bias or reſtraint, is offered to you as an overt act of compaſſing or imagining the King's death. " A force " upon the Parliament" you are told, " muſt be " immediately directed againſt the King, who is " an integral part of it ; it muſt reach the King, " or it can have no effect at all."

But what was to reach the King ?—Not the point of the dagger ; nor the bayonets, nor the fear of the bayonets, of the ſoldiers of inſurrection :—No—but the " Power," or, as it is afterwards called the " Force," of opinion collected and concentrated by 50 or 60 individuals, without fortune, rank, or connection, aſſembled for three or four weeks in convention, and delivering their opinions on Parliamentary Reform. This forſooth, from the poſſibility (if poſſible it was) that it ſhould occaſion Parliament to reform itſelf contrary to its own free will, and thereby eventually occaſion the King, contrary to his free will, to conſent to ſuch reform :—this is to be conſidered now as an overt act of compaſſing the King's death.

But let not the lives of Men and Britons be trapped in the ambiguity of words : nor let it be ſup-

ſuppoſed—(for if you conſult the authorities referred to, you cannot ſuppoſe) that by reſtraining and putting a force upon the King was ever meant that gentle coercion which aggregate and concentrated opinion may produce. If it was, then would every attempt of any body of the people to expreſs their opinion, upon any political ſubject whatever, be an open act of High Treaſon: for every ſuch aggregate expreſſion muſt mean, if it means any thing, to reſtrain and direct, in ſome meaſure, the future conduct of Government. Nay, at this rate, I will be bound to prove that every motion in Parliament for cenſuring the meaſures, or enquiring into the conduct of miniſters, nay, every new bill, of a public nature, not abſolutely originating in the Cabinet, is an act of High Treaſon in the framers and agitators of ſuch bill or motion. For it muſt paſs through the two Houſes of Parliament, before it is preſented for the Royal aſſent. And does it not then come with a *power or force of opinion* likely to *reſtrain* the free judgment of the Sovereign? And do not hiſtorians agree that ſeveral princes have poſitively yielded an unwilling aſſent to ſuch bills and motions, in conſequence of the *power* or *force* of opinion thus put upon them.

As for the poſition itſelf of the unity and indiviſibility of the King and Parliament, and the conſequent inferrence, upon which ſo much ſtreſs has been laid by the Crown lawyers, that to put a reſtraint upon the Parliament is to put a reſtraint upon the King; this is ſo far from being true, that inſtances are not wanting in hiſtory where their intereſts were in diametrical oppoſition; and where every friend to the ſovereign was called upon to

ſhew

ſhew his zeal for his ſervice by the moſt open reſiſtance to the uſurping Oligarchy that tyrannized in the Houſe of Commons. How then is a force upon Parliament (particularly a force of voices and opinions) of neceſſity immediately direct againſt the King?

You have been told, it is true, with ſome attempt at plauſibility, that the King, being by his coronation oath the guardian of the laws, is bound to reſiſt any *extra-parliamentary* attempt to alter thoſe laws; and that as, by that reſiſtance, his life may be endangered, ſuch *extra-parliamentary* attempt is an *overt act* of High Treaſon. But in this ſtatement there are two palpable fallacies. In the firſt place, the Coronation Oath does not pledge the King to reſiſt all alterations of exiſting laws (for then would the Laws of Britain, like thoſe of the Medes and Perſians, or the fiats of a fabled Jupiter, be irrevocable) but only to conform to thoſe laws ſo long as they remain unaltered. And as it is the duty and practice of Parliament *(when there is a Parliament!)* to influence the Crown, by its voice and councils, in the improvement and alteration of thoſe laws; ſo it is the right and bounden duty of the people to influence, by their voice and opinions, the conduct of their repreſentatives in Parliament, relative to ſuch alterations. In the next place there is a ſtill more groſs abuſe of common ſenſe in the ambiguous uſe of the word *reſiſtance*. For, whatever deſigns may be attributed to us, as to the amelioration of our laws and inſtitutions, yet the very witneſſes for the proſecution, (the perjured ſpies alone excepted) have uniformly declared that force and violence were entirely out of the queſtion. With re-

ſpect to myſelf in particular it has been diſtinctly ſworn that "I was a zealous advocate for uni-"verſal peace; and that I deemed all violence "hoſtile to the object we had in view *;"—That "I always upheld, both in public and in private, "that truth and reaſon ought to be the only wea-"pons of the friends of liberty;—and that ſpecula-"tive opinions ought never to be enforced by "violence †." That "in the committee of the "ſociety a raſh individual, an agent perhaps of "gentlemen, high in office, having talked of re-"ſiſting peace officers, if they came to diſturb the "meeting, my anſwer was "By no means. "*Submit to the laws and the laws will juſtify you.*" and that my doctrine uniformly was "*The pen is* "*the only artillery, and ink the only ammunition* "*that the London Correſponding Society muſt ever* "*uſe* ‡." Nay, Lynam himſelf, that prevaricating, profeſſional ſpy—whoſe evidence is one tiſſue of malicious miſrepreſentation, has been compelled, *reluctantly*, to acknowledge that "a propoſition being "made to publiſh a liſt of perſons who had given "evidence againſt the patriots, it was unanimouſly "rejected, upon my repreſenting that ſuch a mea-"ſure might inflame the public mind, and lead to "maſſacres."

If then the peaceful, the ſpirited remonſtrances of the people, were to be reſiſted only by the peaceful rejection of their wiſhes, where was the

* Teſtimony of *Stewart Kyd.*

† J. S. Taylor of Norwich, Surgeon: witneſs for the Crown.

‡ R. Davidſon: witneſs for the Crown.

danger

danger to the Royal perſon? And if, on the contrary, we are to underſtand that Reaſon is to be ſilenced by execution, and remonſtrance repelled at the point of the bayonet;—if peaceful aſſemblies of the people are to be diſperſed by the ſabres of armed aſſociators; and their leaders to be hanged, drawn, and quartered, for pointing out the neceſſity of reform;—and if it is argued, as it may be with too much truth, that the probable conſequences of ſuch meaſures muſt be univerſal uproar and rebellion, who, I aſk, are the traitors?—who are the conſpirators againſt the King and Conſtitution? the fomentors of anarchy? and the imitators of French violence and maſſacre?—Who, I ſay, in ſuch caſe, ought to be placed at the Bar of the Old Bailey—the perſecuted aſſociator for reform, or the miniſters who could adviſe ſuch unheard of tyranny?

But it is time to annalyſe, more particularly, the idea of *overawing Parliament*: for this is, at laſt, the new fangled treaſon we are charged with. Let us ſee what in reality it means: for words of ambiguous import beget a confuſion in the mind eminently injurious to the cauſe of juſtice.

This overawing of Parliament, then, muſt be effected in one of theſe two ways—either

By levying an armed force for the purpoſe of intimidating, and becoming maſter of its deliberations—or

By concentrating ſuch a number of ſuffrages and opinions as might command the reſpect and attention of that aſſembly; and thus induce them, however unwillingly, to turn their ſerious attention to the ſubject of reform.

How foreign from our ſyſtem the former of theſe projects is, has been already ſhewn; as alſo, the extreme abſurdity of ſuppoſing that ſuch men, ſo totally deſtitute of all requiſite reſources, ſhould embark upon this Quixotic adventure, and without ſword or lance (for contemptible as the nonſenſe about pikes and bayonets has proved, no part, even of this attaches to me or my immediate aſſociates) ſhould attempt to over throw, not the wind mill of miniſterial intrigue, but the enchanted caſtle of the Britiſh Conſtitution itſelf.—It has alſo been fully proved, both by my witneſſes and the witneſſes for the Crown, that the Society in general, and myſelf in particular, have always regarded bloodſhed and violence with the utmoſt deteſtation; and exerted every faculty to preſerve the order ſo eſſential to the diffuſion of political truth.—I ſhall not, therefore, conſume your time with further reaſoning upon this part of the ſubject. Nay, Gentlemen, if this evidence had not been given, yet no ſatisfactory evidence, under that head, having been adduced on the part of the crown, you would have been bound to put ſuch ſuggeſtion entirely out of the queſtion: for it is a maxim of juſtice, and one of the avowed principles of Engliſh law (without which, indeed, no innocence could be unſpotted, no virtue ſecure) that when any action is capable of two interpretations, that which is moſt favourable muſt be adopted.

This maxim, it is true, in the tumult of factious aſſemblies, in the ebullition of political paſſion is ſometimes forgotten: but what muſt be the condition of mankind if theſe paſſions—if this factious intolerance gets footing in a court of Juſtice?—

Woe

Woe indeed upon that Nation whoſe Judgment Seat is polluted by party—whoſe Magiſtrates are the ſervile echoes of a Court, or a Miniſter—or whoſe Juries are biaſſed by the declamations of men whoſe paſſions are inflamed by the ſtruggle for emoluments and diſtinctions!

To the latter only of theſe charges then I am called to reply; namely, That a conſpiracy was formed to call a Convention to diſſeminate the principles of annual election and univerſal ſuffrage, and increaſe the aſſociations for that purpoſe, till ſuch a general ſentiment ſhould be evinced, as might challenge the reſpect of Parliament, and induce that aſſembly to comply with the popular wiſh.

Now, Gentlemen, the firſt queſtion is, whether even this is proved?

The next is to enquire, if proved, how far it is to be conſidered as criminal?

The firſt of theſe I leave where the Gentlemen of the Long Robe have left it: as for the other I ſhall not ſcruple to declare that this charge, if properly underſtood, inſtead of placing us at this bar, ought to enrol our names among the benefactors of mankind. For what does the charge amount to? Simply to this: that we attempted ſo to organize the public opinion that it might be made known to the repreſentative, and Miniſters, if that opinion really is in favour of Reform, might have no pretence for refuſing our juſt deſire.

If this be a crime, Repreſentation is itſelf High Treaſon; and to talk of the Commons of Great Britain in Parliament aſſembled, is mockery and abſurdity. If, as has been aſſerted, even by the enemies of Reform, the Members of the Houſe of Commons, though *choſen by a few, virtually re-*

preſent the whole of the people; then have the *whole* of the people a right to direct thoſe repreſentatives, whenever the general opinion can clearly and peaceably be collected; and it follows of courſe, that if the collective voice of the people has a right to be heard, deviſing means to aſcertain that voice, cannot be a crime: much leſs the enormous crime of High Treaſon.

The Members of the Commons Houſe of Parliament ought, indeed, to deliberate upon the means of advancing the general happineſs; but they are no longer repreſentatives, either *poſitive* or *virtual*, if the people have not a right to inſtruct them as to particular objects of deliberation.

But this right of the public to declare its congregated will does not reſt upon the ſandy foundations of what has been *fantaſtically* called *virtual repreſentation*. It is built upon the baſis of eternal truth; it is ſupported by the pillars of common ſenſe and general expediency; and its "Corinthian capital" is that ſplendid diſplay of intellect and public virtue it is calculated to produce, and which ſhould never fail to be conſpicuous beneath its ſpacious porch.

If words have any meaning, repreſentation muſt be a truſt—and all truſts, ſays Lord Somers (a conſtitutional writer of allowed authority, and once Lord Chancellor of this country), "all "truſts, by their nature, import that thoſe to "whom they are given are accountable, though "no ſuch condition be ſpecified," [*Judgment of Nations, p.* 23.]—"There muſt be," continues he, "in every government a power to preſerve itſelf, "not only againſt force from without, but againſt "violence and every thing elſe that is deſtructive from

" from within. As a man preſerves his perſon from " diſeaſes, as well as defends it againſt violence. " He cannot renounce this power, becauſe ſelf- " preſervation is, and will always be a duty; neither " can a people"—Mark, I pray you the language of this writer, whom as a conſtitutional authority no one will call in queſtion—" *Neither can the* " *people*, united in ſociety, renounce the power of " maintaining that ſociety or government, the in- " ſtrument of their ſafety and preſervation; for " the condition of all ſubjects would be alike, " whether under abſolute or limited government, " if it were not lawful to maintain and preſerve " thoſe limitations: ſince will and pleaſure, and " not law, would be, alike in both, the meaſures " of obedience—For to have liberties and privi- " leges, unleſs they may be defended, or to have " none at all, is the ſame thing, as to be governed " by mere will and pleaſure, or by laws ſubject " to will and pleaſure." *Ib. p.* 24.

Thus then, that repreſentatives are accountable to the people repreſented, and that the *people not only* have a *right*, but are bound in *duty* to watch over and defend their liberties, are principles founded in unalterable juſtice, and ratified by the the Britiſh conſtitution. But how is this account to be called for? How are theſe liberties to be aſſerted? How—but by collecting the aggregate voice of the nation, and reminding thoſe whom power is apt to ſeduce into forgetfulneſs of the true ſources of their authority?

In ſhort—frequently and peaceably to collect in a clear and audible manner, this aggregate opinion of a nation, is the beſt way of ſecuring general happineſs, fortifying the virtue, and expanding the intellects of mankind: and he *who deviſes* the method of collecting this opinion with

the greateſt purity (that is to ſay with the greateſt freedom from influence, fear, or corruption) will confer the greateſt poſſible benefit upon the human race. It is from the want of this that mankind ſtill continue to be but half humanized—to be divided into caſts and factions, rendered hoſtile by oppoſing intereſts, and irritated by reciprocal jealouſies. Who is the man? What is his country? his claſs? his condition? To what ſect or ſociety does he belong? are the enquiries we are conſtantly making—not what are his merits, his capacities or his virtues?

Such being the maxims upon which this Convention was to have been formed, if it had aſſembled, it would have commanded reſpect in proportion only to the numbers repreſented, and the wiſdom, firmneſs, and moderation of its meaſures. But that it ever could aſſume, or ever meant to aſſume any legiſlative authority of its own, or meditate the collection of any *power* or *force* for the purpoſe of reſtraining (in any common acceptation of the term) the deliberations of Parliament or the functions of the executive power, is an abſurdity ſo monſtrous that I will not libel the underſtandings of my proſecutors by ſuppoſing they ever gave it one moment's belief.

But Gentlemen, during theſe proceedings it has been ſometimes inſinuated, and ſometimes openly avowed that the profeſſed objects of ſome of the ſocieties, namely, *Univerſal Suffrage* and *Annual Parliaments*, were of themſelves High Treaſon; inaſmuch as the eſtabliſhment of them would be a ſubverſion of the conſtitution. This aſſertion, however neceſſary to the ſupport of the charge you are to decide upon, is the moſt unfortunate that could be made by the profeſſed

advocates

advocates of ancient inſtitutions. For what is our boaſted Conſtitution, if the moment you realize it, it muſt crumble into atoms? and what politician familiar with the hiſtory of that conſtitution, does not know that it is only by encroachments and innovation that we have been robbed of theſe invaluable privileges.

With reſpect to *Annual Parliaments*, to ſay nothing of the innumerable paſſages in the works of our beſt conſtitutional writers in which the right is poſitively affirmed, it cannot be forgotten that during the agitation of this queſtion in the year 1780, it was demonſtrated by authentic documents, not only to have been the acknowledged right, but, for a conſiderable period the abſolute practice of Engliſhmen to elect repreſentatives for every ſeſſion. [*G. Sharp, Def. &c.*] And as for *Univerſal Suffrage*, if this be not a part of the genuine conſtitution, what is the meaning of that maxim ſo frequently reiterated by Blackſtone, Sommers, and a variety of conſtitutional writers, that every Britiſh freeman ſhould be governed by laws of his own making? For the diſtinctions of vaſſalage are now no more; and no one will have the audacity to deny that by "every Britiſh freeman" is explicitly to be underſtood "every native inhabitant of Britain." What alſo is the meaning of the following quotation from Blackſtone? "No ſubject of England," ſays he, "can be conſtrained to pay any aids or "taxes"---and be it remembered that for every morſel of bread that goes into the labourer's mouth taxes have been levied in a variety of forms. "No ſubject of England can be con- "ſtrained to pay aids or taxes, even for the de- "fence of the realm or the ſupport of govern- "ment,

" ment, but ſuch as are impoſed by *his own con-*
" *ſent*, or that of his repreſentatives in Parlia-
" ment!" In ſupport of which he quotes a variety of acts of Parliament, particularly " 34 E. I. ſt. " 4, c. 1, which enacts that no talliage or aids " ſhall be taken without aſſent of the archbiſhops, " biſhops, earls, barons, knights, burgeſſes, and " *other freemen* of the land." *Book* 1, *cap.* 1, *p.* 140.—Is not this an ample acknowledgment of the right of univerſal ſuffrage? Is it not an expreſs declaration that *every individual debarred the right of ſuffrage is in reality a ſlave?*

But let us meet the queſtion upon broader grounds—the grounds of expediency and juſtice.

It is *juſt* that every individual ſhould enjoy the full benefit of his own faculties. It is expedient, that every inducement ſhould be held out for the exertion of thoſe faculties; becauſe it is only by ſuch exertion that either the individual or the public can reap advantage. The beſt way to ſtimulate theſe exertions is to ſecure to every one the fruits of his aſſiduity: and this can only be done by *equal laws*. But equal laws muſt proceed from equal weight and influence: for if repreſentation be confined to particular claſſes, Benevolence may exert her energies in vain. Man will ſtill be man; the few will continue to be favoured; and the maſs will be inevitably oppreſſed.

Why is it that factors, merchants, wholeſale-dealers and opulent manufacturers enter into combinations with impunity? monopolize as they pleaſe? and fix, in their conventions, the price of commodities at diſcretion? while labourers and mechanics who enter into aſſociations to appreciate their own labour are ſentenced, like felons, to a gaol? Why has commerce, by which the opulence

opulence, the pleaſures, the luxuries of the higher orders are ſo eminently increaſed, ſunk the induſtrious poor into ſtill more abject miſery? Why is the labourer taken from his plough, or the manufacturer from his loom to bleed in foreign conteſts? while thoſe who riot in luxurious indolence enjoy the glory of his ſcars at home? Why? —Becauſe only the opulent and powerful are repreſented in Parliament; and therefore they are the opulent and powerful alone, whoſe intereſt the repreſentatives find it neceſſary to conſult. If once in every year the poor man's vote were as important as his employer's, the poor could not be forgotten.

But it is *property*, we are told, that ought to be repreſented, becauſe by property government is ſupported. What!—does property man the navy? Does property fill the ranks of armies? O! that this cruel conteſt, which is deſolating Europe, were indeed but a war of property! that government required no ſupport but from the funds of opulence! and that the blood of our fellow beings might ſtream no more!

Let us not deceive ourſelves!—Property is nothing but human labour. The moſt ineſtimable of all property is the ſweat of the poor man's brow:—the property from which all other is derived, and without which grandeur muſt ſtarve in the midſt of ſuppoſed abundance. And ſhall they who poſſeſs this ineſtimable property be told that they have no rights, becauſe they have *nothing* to defend? Shall thoſe who toil for our ſubſiſtence, and bleed for our protection, be excluded from all importance in the ſcale of humanity, becauſe they have ſo toiled and bled? No: man and not moveables is the object of juſt legiſlation. All, therefore,

ought

ought to be conſulted where all are concerned: for what leſs than the whole ought to decide the fate of the whole. And if a few are to be the *ultimate* organ of that deciſion, what medium is there between *ſuffrage* and *uſurpation?* Thoſe who are entitled to this ſuffrage are the only free men. The reſt are Helotes, bondſmen, ſlaves! The former are, in fact, the proprietors of the liberties, lives, and properties of the latter; and, even if corruption were entirely out of the queſtion, their votes could but give taſkmaſters and tyrants to the disfranchiſed multitude. As it is, the unjuſt diſtinction renders the few it pretends to favour ſtill more abject ſlaves.

If you wiſh that repreſentation ſhould be productive of real advantage, let that repreſentation itſelf be real. The evils that reſult from it are the conſequences of its partiality. If you wiſh that repreſentation ſhould be any thing more than the vehicle of corruption, extend the rights of ſuffrage till no one can have the means to corrupt. Realize the Conſtitution if you expect us to admire it. And before you boaſt again of the mingled advantages of monarchy, ariſtocracy and democracy, redeem the democratic branch, the moſt valuable of the three, from the hands of the venal oligarchy, (the ONE HUNDRED AND SIXTY-TWO PROPRIETORS) who have uſurped it; and let the Commons Houſe of Parliament be in reality a Houſe of Commons.

In ſhort, if you wiſh the people to be contented, reſtore to them the means of being happy.—If you wiſh that wiſdom and virtue ſhould take place of intrigue and venality, reſtore to the people

people at large their right of legiſlating for themſelves.

Vox populi vox Dei.—For what is the voice of God but the general voice of Nature? And, with reſpect to political regulations, what oracle can you conſult, what part of nature can you render vocal but man, for whoſe benefit alone political inſtitutions exiſt.

But we are told by our opponents that the judgments of men are ſo fallible, and ſo liable to be miſled by paſſion and prejudice, that to ſuffer them to be in any degree their own maſters is to devote them to deſtruction. To this I need only anſwer, that thoſe who make the objection are men themſelves, and do not pretend to the knowledge of any acceſſible being to whoſe *more infallible* judgment we might appeal.

The queſtion then is—Whether mankind ſhould be ſubjected entirely to a few ſelf-conſtituted arbitrators, who not only are liable, like themſelves, to all the deluſions of paſſion and prejudice, but who always *may conceive*, and ſometimes *poſitively have* a ſeparate intereſt hoſtile to the happineſs of the whole?—or whether the aggregate body of the people ſhould appoint their own repreſentatives, and reviſe occaſionally the limits of their delegated authority?

This queſtion does not require an anſwer. In ſhort, as Monteſquieu obſerves, " The people " *ought* to do for themſelves whatever conveniently " they *can;* what they themſelves cannot rightly " perform they muſt do by their agents: and the " agents are not properly their's, nor can expect " their confidence, unleſs they have the nomina- " tion of them." [*Sp. L. B.* 2. *c.* 2.]

Nor

Nor is it any objection that this is quoted from a chapter profeſſedly treating of democracy. It is the democratic part of the Conſtitution I am defending: it is that only with which it is my preſent buſineſs to interfere: it is that which it is the intereſt and the *duty* of the people, at this time, to defend; and if they do not defend it with intrepidity, they are loſt for ever: ſwallowed up in the vortex of new-created peerages, and buried beneath the rubbiſh of rotten boroughs.

The *right* then of the people to a voice in the government by which their lives, their properties, their labour is diſpoſed of, is ſo well eſtabliſhed, that the practical expediency—that is to ſay, the capability of the maſs of mankind to exerciſe this right, is all that remains in diſpute.

But what ground of objection can there be in this point of view? If the maſs of mankind appear at preſent to be loſt in ignorance, what is this but the conſequence of their degradation? Reſtore them to their rights and they will of nececeſſity learn their duties. Shew them that they are of ſome importance in ſociety, and they will enquire into the means of promoting its happineſs. It is from the want of this importance and this enquiry that paſſions are ſo frequently generated deſtructive to the public peace. For if you will treat us only like beaſts of burthen, what wonder if we ſometimes break the yoke and become beaſts of prey! If you wiſh the people to be humanized, reſtore them to the privileges of humanity—reſtore to every individual that liberty without which he may ſometimes be a ſpaniel and ſometimes a tyger, but never can be a man.

Beſides, can any thing be ſo abſurd as the objection of ignorance?—Are not many of thoſe who

who conſtitute at this time, the electing body, perſons (if ſituation could diſqualify men for the enjoyment of their moſt ſimple rights) leaſt capable of exerciſing theſe excluſive functions? Is the potwallopper (whoſe ſole qualification is dreſſing his dinner once in ſeven years in the open ſtreet) a fit perſon to vote for a repreſentative in Parliament? and is there yet a human being of adult years, not incapacitated by crimes or inſanity, to whom it would be dangerous to extend the privilege? Nay, what are the requiſites for exerciſing this right? "They have only to "be determined by things to which they cannot "be ſtrangers—by facts that are obvious to ſenſe." Is not the meaneſt peaſant capable of knowing who is a kind and indulgent maſter to his dependents, and a benefactor to the ſurrounding neighbourhood? who is careful of his own property, and enjoys it to the credit of his family, and the happineſs of his fellow creatures? And if ſo are they not capable of electing thoſe who are to be entruſted with their protection and proſperity.—"Theſe," as Monteſquieu obſerves, "are "*facts of which they can have better information in* "*a public forum, than a Monarch in his palace.*" Book 2, Chap. 2.

"Should we doubt," continues this Philoſopher, "of the people's natural ability in reſpect "to the diſcernment of merit, we need only caſt "an eye on the continual ſeries of ſurpriſing "elections made by the Athenians and Romans; "which no one ſurely will attribute to hazard." And in his chapter on the Conſtitution of England, ſpeaking of the right of ſuffrage in the compoſition of the Houſe of Commons, he expreſsly ſays—"Though few can tell the exact degree of men's

" men's capacities, yet there are *none* but are ca-
" pable of knowing, in general, whether the per-
" ſon they chuſe is better qualified than moſt of
" his neighbours." *Book* 11, *c.* 6.

Thus then we ſee that philoſophy and experience are united in this teſtimony—that there are certain important functions which the aggregate body of the people are not only *capable of diſcharging*, but which *they ought always to diſcharge*, becauſe they are more capable of diſcharging them with propriety and effect than any individual, corporation, or privileged order whatever.

The more intricate parts of government, I acknowledge, the multitude are not capable of managing themſelves. They are not qualified to find out and make proper uſe of places, occaſions, moments. This is beyond their capacity, And if theſe things were not beyond their capacity, repreſentation would be uſeleſs: government itſelf would be uſeleſs; and the aggregate body of the people, without ſubjection and without expence, might conduct the whole affairs of the nation. It was then becauſe the people themſelves are capable of performing only thoſe more general and obvious functions, which require nothing but common honeſty, and common experience for their due diſcharge, that our anceſtors conſented to part with a proportion of the produce of their labour, to ſupport the expences of government; and repoſed the more difficult and intricate parts of public adminiſtration in the hands of thoſe whoſe talents they had experienced, and in whoſe integrity they had reaſon to confide. But as power is too apt to intoxicate its poſſeſſors, and from long enjoyment and gradual uſurpation, from having been accepted as a truſt, to be conſi-

dered

dered as a property, it not only reſults as a *right*, but as a *neceſſary duty* that the people ſhould aſſociate whenever they feel themſelves oppreſſed by unuſual burthens, to enquire into the nature and cauſes of their grievances, to ſee whether thoſe burthens are not unneceſſarily augmented by exorbitant ſalaries and unmerited penſions; and to ſee, in ſhort, whether their *delegates*, in various departments, have, or have not violated their compact; and whether any, and what additional barriers are neceſſary for the ſecurity of their rights, and the promotion of general happineſs. This, I repeat, if repreſentation has any meaning—muſt not only be a right, but a bounden duty: ſince the very circumſtance of electing repreſentatives proves the right of the electors to do that which thoſe repreſentatives are delegated to perform. They who appoint another to diſcharge for them any particular function, muſt of neceſſity have a right to ſee that ſuch function is duly and faithfully diſcharged.

But it is urged, in aggravation of our ſuppoſed offence, that numerous meetings were called, and ſtrong reſolutions paſſed, marking, in *intemperate language*, the moſt decided diſapprobation of *certain meaſures in contemplation of the legiſlature*.

In this accuſation there are two points which require very different anſwers. There is ſomething to juſtify, and ſomething to apologiſe for; but there is no Treaſon: and thoſe who place me at this bar, when conſcience preſſes the queſtion home to them, muſt acknowledge that they knew there was none. For, admitting, for a moment, all the aggravated colourings of the public proſecutor, the acts charged upon theſe meetings amount to nothing more than *what is called ſedi-*

tion; and repeated decifions, judicial and parliamentary, have declared that no poſſible number of actions not in themſelves diſtinct overt acts of treaſon, can, by accumulation, amount to that crime.

But I ſhall not drop the queſtion here. It is not enough for me to ſhew you, that I and my companions ought not to be hanged, drawn and quartered; and our families reduced to hopeleſs beggary. The liberty of my country is attacked at the very vitals; and it is neceſſary I ſhould aſſert the genuine principles of that liberty, that, as far as depends upon my individual exertions, it may deſcend, uninjured, to poſterity. With reſpect to theſe meetings themſelves, then, I contend, that it reſults from the premiſes already eſtabliſhed, that in them there is no criminality ~~whatever~~. Peaceably to meet in ſuch aſſemblies, and compare their ſentiments on the proceedings of Government, is, I contend, an abſolute right of the people, and every part of the people of this country---the *conſtitutional right* of non-electors, as well as conſtituents---of thoſe who have no particular repreſentatives, as well as thoſe who have. "For every member of Parliament," ſays Blackſtone, "though choſen for one particular "diſtrict, when elected and returned, *ſerves for* "*the* WHOLE *realm*. The end of his coming is "not particular, but general; not barely to ad-"vantage his conſtituents, but the *Commonwealth*." [*B.* 1. *c.* 2. *f.* 159.] Every part, therefore, of that *Commonwealth* muſt have a right to inveſtigate the conduct of ſuch repreſentatives, to expreſs their ſentiments of the proceedings of the repreſentative body, and diſcuſs, when they feel occaſion, thoſe intereſts to which it is the duty of that

that body to attend. It is a right inherent in the frame and conſtitution of all free ſocieties, and which has hitherto been enjoyed without queſtion or interruption.

If this is not true, why was the univerſal right of petitioning declared at the Revolution? and how is that right to be exerciſed? Why has the Miniſter ſo frequently ſought to bolſter up the reputation of his meaſures by tavern meetings, Reevite clubs, and parochial aſſociations?---Is the boaſted liberty of Britons a liberty only of ſervility and adulation? --Is it conſtitutional to call numerous meetings to applaud the ſanguinary and ruinous projects of men in power? and High Treaſon to do the ſame thing for purpoſes of remonſtrance and reprobation?

In ſhort, as has been before demonſtrated, the right of popular repreſentation includes the right of popular opinion, and popular opinion can only be collected by popular aſſemblies. Provided therefore ſuch popular aſſemblies proceed to no attempts of violence, they muſt be lawful. Nor can their reſolutions, however indecorous in point of language, amount to treaſon, even admitting the utmoſt latitude of conſtruction contended for by any of the authorities, unleſs they contain direct incitements to the death or depoſition of the King. Much leſs can they be brought under the penalty of that crime when, as in the inſtances before us, they are directed, not in any ſhape againſt the perſon or authority of the ſovereign, but againſt the miſconduct and uſurpations of his miniſters.

" It is the laſt ſtage of intolerable deſpotiſm," ſays Gibbon, tracing with philoſophical hand the progreſs of Roman degeneracy, " when offences

" againſt the miniſters of the prince are con-
" founded with thoſe againſt his perſon." Yet ſuch is the caſe in the preſent proſecution. For what are the addreſſes and reſolutions of the meetings under conſideration, but bold, ſincere, and (I admit) intemperate attacks on the proceedings of what they call " the faction in power?"

And here let me aſk you, Gentlemen, if the direct and open appeals which I have been in the habit of making againſt the folly and wickedneſs of the preſent adminiſtration were not the *real* crime for which *they conſpire* my deſtruction, how happens it, that out of this huge maſs of evidence, notwithſtanding my alledged activity in the ſociety, ſo little ſhould be produced for which I am perſonally accountable?

Out of all the tranſactions of the ſociety there are only three papers originating in me, which they have thought proper to ſelect. 1. A letter to Norwich, dated Nov. 23, 1793, calling upon the ſociety there for " the moſt active exertions " in *every conſtitutional meaſure* that can be deviſ-
" ed for the *recovery of our rights*, and the com-
" plete *renovation* of the liberties and happineſs
" which, as men, we are entitled to, and, as Bri-
" tons, we have been taught to expect." [*Rep. Sec. Com.* p. 150. *Jordan's edit.*] 2. The circular letter, falſely attributed to the Committee of Co-operation, but in reality the ſole act of that temporary Committee of Secrecy which has been the ſubject of ſo much confuſed and abſurd miſrepreſentation: a letter in which you will remember the different ſocieties are invited to " co-ope-
" rate in the only *peaceable* meaſure preſenting it-
" ſelf with any proſpect of ſucceſs." [*Rep. Sec. Com.* p. 22.]

p. 22.] and 3. The reſolutions adopted at Chalk Farm.

With reſpect to the meeting at the Globe, it has been proved to you that *two* papers were read and adopted. Of one of theſe I am proved to havebeen the *publiſher*. But the other (a circumſtance much more concluſive as to my particular motives and ſentiments) was *written* by me. If I am the dangerous traitor—the man of *peculiar violence*—the *Maratiſt*—the *Anarchiſt* I have been repreſented by the unprincipled agents of my proſecutors, why were not more of my perſonal acts, and this paper in particular, brought forward, inſtead of rummaging my cloſet for unfiniſhed letters, and breaking open the houſes of my neareſt relations for the ſecrets of my familiar correſpondence?

The fact is, theſe documents could have proved nothing but a heart bleeding for the miſeries of the lower orders of the community, and burning with indignation againſt the oppreſſive corruption from which thoſe miſeries proceed. But theſe facts, however, calculated to inflame their hatred, were likely to inſpire in an Engliſh Jury but little of that ſort of ſympathy which might ſuit the purpoſe of the proſecutors. Every thing was therefore ſuppreſſed that might reveal in naked deformity, the real motives of this ſanguinary proſecution: and the ſcanty materials ſelected by their diſcretion were to be parceled out with collateral forgeries; and all the rancorous prejudices which calumny could accumulate.

O miſerable country! O degenerate Britain! whoſe liberties can be ſuſpended, and whoſe ſons, after languiſhing ſeven months in Baſtiles and *noxious* dungeons, can be arraigned for their lives by

a junto who dare not give in evidence the *real* cauſes of the proſecution!

But what are the tranſactions they *have* given in evidence? Are not theſe, alſo, ſtatements of grievances produced by the maladminiſtration of our accuſers? What are the *intemperances* upon which ſo much ſtreſs is laid, but expreſſions of indignation againſt the ruinous meaſures of "that "corrupt and overbearing faction which tramples "on the rights and liberties of the people." [*Circular Letter, Rep.* 1. *p.* 22.]

"We muſt have redreſs from *our own laws*," ſays the addreſs from the Globe Tavern,—and this is the part upon which particular ſtreſs is laid: "We muſt have redreſs from our own laws, not "from the laws of our *plunderers, enemies, and* "*oppreſſors.*"

'Now this "corrupt and overbearing faction" —theſe "plunderers, enemies, and oppreſſors," ſay the proſecutors, 'are the legiſlature of the 'country—the King, Lords, and Commons of 'Great Britain.' But does the context ſay ſo? No—Candid interpretation applies theſe expreſſions (harſh and intemperate, I acknowledge—but not treaſonous) in one inſtance to the adminiſtration only; and in the other, to that adminiſtration, in conjunction with the borough proprietors, and other inſtruments of corruption, who command, and while the preſent miſerable ſtate of repreſentation continues, muſt inevitably command the property, lives, and liberties of the people.

Theſe are, at preſent, the makers of the laws. But theſe are not the *conſtitutional* authorities. Nor do I know where to look for the act of parliament that defines the limits of treaſon againſt placemen,

placemen, penſioners, and proprietors of rotten boroughs.—Theſe are the ſovereigns againſt whom the conſpiracy ought to have been charged—if *conſpiracy* had exiſted;—which it did not—for our tranſactions were *public*; and to *conſpire* is to *breathe* or *whiſper* together in *private*.

But, ſay the proſecutors, "what arewe to underſtand by "redreſs from *our own laws?*" Is not this an open avowal of the intention of theſe ſocieties to ſeize the government into their own hands, and, by *their* Convention, make new laws for themſelves?" —No. The Society is ſpeaking to the people at large—Is ſpeaking of the common cauſe and common oppreſſions of the people, of which they are a part; and ſpeaks, therefore, as uſual in ſuch caſes, in the name of the whole—"*We* muſt have "redreſs from *our* own laws:" and if the people at large have not a right to be governed by *their own* laws, what does Judge Blackſtone (and other conſtitutional writers), mean by affirming, that "in a free ſtate, every man who is conſidered as "a free agent, ought to be in ſome meaſure *his* "*own governor*; and therefore a branch, *at leaſt*, "of the legiſlative power ſhould reſide in *the* "*whole body of the people?*" [*B.* 1, *c.* 2, *p.* 158.] What is the meaning, alſo, of that proviſion already quoted of 34 E. 1. which ſo expreſsly declares taxation without repreſentation a public robbery? Why does the conſtitution call the Houſe of Commons "The *Commons of Great Britain* in Parliament aſſembled?" Are the burgage-holders of Bramber, Eaſt Grinſtead, Downton, Old Sarum, and the like, the Commons of Great Britain? and are the myriads of inhabitants in Mancheſter, Birmingham, the ſuburbs of London and Weſtminſter, and all theſe populous por-

tions of the iſland, to whom not even the ſhadow of repreſentation is extended, nothing but beaſts of burthen? Are the *thirty-two* electors of Bath, and *ſixty* or *ſeventy non reſidents* of Wincheſter, the Commons of thoſe populous cities? and are the *thouſands* of diſfranchiſed inhabitants nothing? In ſhort, do corporate bodies alone partake of the nature and privileges of human beings? and are the reſt of the people only chattels and lumber?

It is then from "the Commons of Great Bri-"tain," by real and adequate repreſentation, "in "Parliament aſſembled," that the London Correſponding Society expreſsly tell you they expect redreſs. "There is no redreſs," ſay they, "for a "nation circumſtanced as we are, but"—from what? From a partial Convention of Delegates, repreſenting a few ſocieties—a ſmall portion only of the people? No. Theſe were only to deliberate, as the letter of the 27th of March explicitly declares on "the means of obtaining in a "legal and conſtitutional method ſuch a repre-"ſentation as might redreſs the grievances under "which we labour." [*Rep.* 1, *p.* 20.] The redreſs itſelf you are expreſsly told could never be expected, but from "*a fair, free* and *full* repreſen-"tation of the people." [*Rep.* 1, *p.* 16.]

Thus, then, it appears from the context, that the language and conduct of the ſociety go no further than this——"Such are the grievances under which we labour from the proſecution of an unjuſt and ruinous war, "from "the oppreſſive uſurpations of a Miniſter," from unequal laws, and the partial adminiſtration of juſtice. But theſe are the conſequences only of the corrupt and vicious ſtate of our repreſentation. It is in vain therefore to ſeek redreſs of theſe grievances till the repreſentation is reformed.

"We

"We must have redreſs from our own laws:"—that is, from laws made by "a fair, free and full repre-"ſentation of the people." But how is this to be obtained? We have been petitioning, in ſeparate bodies for 30 or 40 years, and are none the nearer. Our petitions have been rejected with indignant contempt, or ſwept away in mouldy ſilence from the table. Let us try what can be done by the force of collective opinion. Let us meet in general Convention, that we may repeat our petitions with one loud and united voice; or determine upon any other *peaceable* method, not prohibited by the conſtitution or law of the country, that may beſt promote ſo deſirable an end. And if we can once obtain this fair, free and full repreſentation, never doubt but that our grievances will all be redreſſed."

This I contend is the fair and juſt conſtruction of the evidence. This is the only manner in which we expected our Convention to be inſtrumental in "ſecuring us from future illegal and "ſcandalous proſecutions, preventing a repetition "of wicked and unjuſt ſentences, and recalling "thoſe wiſe and wholeſome laws that have been "wreſted from us." [*Rep.* 1, *p.* 21.]

I do not vindicate the intemperate language in which ſome of theſe reſolutions are expreſſed. Intemperance, though in ſome degree excuſable, when the provocations have been great, is never, I believe the beſt friend of Truth and Liberty. But the members of the London Correſponding Society, like thoſe whoſe corruption they complain of, are but men. Nor is it ſtrange, afterthe monſtrous calumnies and abuſe which the latter had heaped upon them—after the manner in which their moſt virtuous members had been vilified, and their moſt able and upright leaders perſecuted and oppreſſed—

after

after they had ſeen their "reſpectable and beloved "aſſociates caſt fettered into dungeons among "felons in the hulks," and tranſported to Botany Bay, "while no one pretended to identify the law "which they had broken."—It is not, I ſay, ſurpriſing that, after all theſe agravations, their minds ſhould become heated, and that they ſhould ſometimes expreſs their feelings in language which their cooler reflections would not juſtify. In the midſt, however, of their indignation and intemperance, no ſhadow of violence, or diſpoſition to treaſon or rebellion ever made its appearance. Sedition, that *new fangled, anomalous* crime, which no ſtatute ever defined, and whoſe limits no lawyer profeſſes to comprehend, is the utmoſt that by any poſſible conſtruction could ever have been thought chargeable againſt them.

Theſe remarks are equally applicable to the Reſolutions paſſed at Chalk Farm. They are attacks, not upon the perſon or government of the King, but upon the mad and deſperate meaſures of Miniſters and their dependant majority. They are ſolemn admonitions to thoſe Miniſters to beware how they betray their maſter into ſituations of the utmoſt peril and calamity, by audaciouſly repeating thoſe very meaſures by which the ſucceſſive Miniſters of the Houſe of Stewart dragged down the vengeance of the nation on that unhappy family. They are ſolemn warnings to the people to be upon their guard againſt the introduction of foreign mercenaries; and the moſt obnoxious of them all is not an attack upon the conſtitution, but an appeal to its principles—an aweful aſſertion of the inviolability of that moſt ſacred of all its barriers—the barrier of trial by jury. It is a proteſt againſt an alarming threat held

held out—not by the ſovereign—not by the legiſlature—but by Mr. Secretary Dundas—He alone it was who had the audacity to threaten the violation and ſubverſion of thoſe yet remaining *laws* that guarantee to Engliſhmen an impartial trial by a jury of their country; and to ſubſtitute, in their place, the arbitrary and tyrannical *practices* of the Court of Juſticiary in Scotland. It is a declaration that this violation and ſubverſion would affect the vitals of Britiſh Liberty; would diſſolve the conſtitution of the country.

Mark the very words of the reſolution, Gentlemen, "That any attempt to violate thoſe yet remaining laws"—Is this an attack upon the exiſtence of law and ſocial order, or a vindication of their purity and importance?—"Any attempt "to violate thoſe yet remaining laws, intended for "the ſecurity of Engliſhmen againſt the tyranny "of Courts and Miniſters, and the corruption of "dependant Judges"—(and does any body believe that Courts and Miniſters would not tyrannize if the laws made for the protection of the ſubject were trampled down)—to attempt this "by veſting in ſuch Judges a legiſlative or arbitrary power (ſuch as has lately been exerciſed "by the Court of Juſticiary in Scotland) ought "to be conſidered as diſſolving the ſocial compact between the Engliſh nation and their governors; and driving them to an immediate "appeal to that incontrovertible maxim of eternal juſtice, that *the ſafety of the people is the* SUPREME, *and in caſes of neceſſity, the* ONLY "LAW."

And is not the ſafety of the people the ſupreme law? Has it not been ſo acknowledged by every country where Liberty and Civilization,

tion have reared their heads? And muſt not the law which is ſupreme, in all caſes of the laſt neceſſity be appealed to as the only law?—If this be treaſon, what is become of the boaſted "Majeſty of the People?" What is the meaning of that phraſe which, in the opinion of continental philoſophers, "is ſufficient, of itſelf, to immortalize the Bri-"tiſh language?" [*Raynal, Hiſt. Philoſ. & Pol. &c.*] And is not the trial by fair and impartial jury the ſheet anchor of this ſafety? What hope, deſpight of conſcious innocence, could I have in this ſtorm of perſecuting power, this hurricane of faction—what hope could thoſe have had, who have already "braved the beating of this pittileſs ſtorm," to eſcape ſhipwreck, but from this anchor alone? And will you ſuffer it to be torn away, and the veſſel of perſonal ſafety to be left to the mercy of theſe ſavage elements? Will you, an Engliſh jury!—I believe an honourable and impartial jury! notwithſtanding the arts and machinations of our perſecutors—Would you, even though you were trying me for ſedition only, inſtead of ſitting in judgment on my life, ſanction by your verdict the practices of the Court of Juſticiary, and thereby pave the way, by a ſort of tacit conſent, to the introduction of ſimilar practices among yourſelves? Would you, an Engliſh jury, be inſtrumental to the violation of every principle upon which the excellence of Engliſh juries, and the moſt valuable part of the criminal juriſprudence of England has for centuries depended? Would you conſent that the pannel of jurors ſhould be *packed* in the firſt inſtance by the ~~public~~ the proſecutor himſelf, and afterwards *picked* by the judges before whom the cauſe was to be tried? and thus unite, as it were, in the ſame hands, the

power

power of accuſation, adjudication, and puniſhment.

Would you, I ſay, by your ſolemn verdict, acknowledge that ſuch doctrines may be held with impunity in an Engliſh Court of Juſtice as have been laid down in the Court of Juſticiary in Scotland?—Doctrines that inveſt the Courts of Law with legiſlative authority—annihilate the very idea of ſettled and impartial juſtice! and, by uſurping the functions of the legiſlature, render that important branch of government a cumbrous nullity.

For remember what theſe doctrines are. Recal to mind the trials of *Skirving*, *Margarot*, and *Gerrald*; of *Muir* and *Palmer*. Recollect the ſpeeches of *Lord Juſtice Clerk*, *Lord Henderland*, and the other Judges of that Court, and you will find them ſolemnly promulgating as legal doctrine that "the judgment of a Privy Council "is to be quoted as authority in a Court of Law, "becauſe pronounced by Judges who were ſitting "(no doubt moſt of them) in Parliament." [*Trial of Gerald*, *p.* 112.] You will find them affirming, avowedly upon no better authority, that "they "have a right to inflict the puniſhment of ba-"niſhment *by tranſportation*," (that is to ſay, to inflict the greater puniſhment where the act of Parliament preſcribes the leſs) becauſe—why?—becauſe there is ſome law authoriſing them ſo to do? No—but "becauſe there is no law re-"ſtraining them from ſo doing!" *Ib.*—So that, inſtead of its being lawful for the people to do whatever the law has not forbidden—inſtead of it being unlawful for the Judge to inflict any puniſhment but what the law has commanded, he is to be at liberty to puniſh every thing, and in every manner

manner which the law has not positively declared ſhall not ſo be puniſhed. If this is what the Court of Juſticiary means by Britiſh Liberty, let them keep it at leaſt on the other ſide the Tweed.

You will find the *Lord Juſtice Clerk* alſo declaring, on the trial of *Skirving*, and *Lord Henderland* echoing, on that of *Gerald*, that there are laws, carrying with them the enormous and unconſtitutional puniſhment of tranſportation, which no act of Parliament has declared, and which it requires no uſage to eſtabliſh. "The law of Scotland," ſays the former of theſe *judicial legiſlators*, [*Skirving's Trial, p.* 55.] "is founded on *many grounds* be- "ſides that of acts of Parliament; there are many "things in it which are eſtabliſhed by uſage" (that is to ſay, Gentlemen, what we call Common Law—the fragments of inſtitutions whoſe origin we cannot trace, but which have been ſanctioned by univerſal aſſent, "time whereof the "memory of man reacheth not to the contrary!") —"by the laws of God"---(which of thoſe laws, I ſhould wiſh to know, have denounced tranſportation againſt reformers for writing and declaiming againſt the vices and corruptions of government? ---If ſuch a law had really exiſted among what are called the laws of God, what would have become of the prophets? and particularly of the ſublimeſt of thoſe who are conſidered as inſpired writers?---Muſt not they have been treated like felons upon charges of Sedition, as Chriſt and his apoſtles afterwards were, when thoſe laws were violated and trampled down?) Theſe laws, however, be they what they will, are no laws in this country, any further than as they have been expreſsly recognized by the legiſlature. ~~and I underſtand from high authorities, that an act of Parliament~~

liament was thought neceſſary, at an early period, to make even the ten commandments part of the law of England. But the moſt extraordinary paſſage is yet to come---"there are many "things," ſays this ſame *Lord Juſtice Clerk*, "in the "law of Scotland, which are eſtabliſhed" (independent of acts of Parliament---independent of ancient and immemorial uſage---independent of the laws of God!) "by *the dictates of the conſcience of* "*men!*" That is to ſay, "whatever the conſciences (ſuch as they generally are) of the party in power, and the Judges (who are generally dependent upon them) may conſider as crimes, are, by the laws of Scotland, to be puniſhed at diſcretion, by the whipping-poſt, by tranſportation, or the gibbet, becauſe there is no expreſs law prohibiting theſe exertions of arbitrary authority!"

Do you not tremble, Gentlemen, when you hear theſe doctrines? Do you not ſhudder with indignation and horror?

The ſame maxims, are, however, re-echoed on the trial of *Gerald*---"It *requires no ſtatute*," ſays Lord Henderland, "*it requires no uſage*, it follows from "the nature of the thing, that to *impugn*" (*that is to ſay*, to controvert, or aſſail by argument) "the *authority of Parliament* is a crime?"---[*Ger. Tr. p.* 104.] In other words, to diſcuſs the meaſures of government---to remonſtrate againſt any of the proceedings of the legiſlature---to controvert the doctrines that influence the Parliament (no matter how unanſwerable your arguments ---nay, it ſhould ſeem the more unanſwerable they are the more they are criminal!)---this, though prohibited by no ſtatute, though condemned by no eſtabliſhed uſage, "is a crime---is the crime of Se-

"dition,"

"dition," [*ib.*] and is to be puniſhed at the diſcretion of the Court.

Is not the direct interpretation of all this, "That the Judges of Scotland, like the Baſhaws of Turkey, and the deſpots of the Roman Empire, are to promulgate their arbitrary will as law; are to puniſh, by *ex-poſt-facto* regulations, whatever they chuſe to conſider as *impugning the authority of Parliament*? and to diſpoſe of life and liberty, as their own caprice, or that of their employers, may chance to dictate?"

Why talk we of ſtar chambers? of the tyranny of Laud? or the execrated miniſters of the Houſe of Stewart? Which of theſe had ever the audacity to publiſh ſuch doctrines? They wantoned, indeed, in the exceſſes of arbitrary authority—though even they did not venture to tranſport, like the vileſt felons, the advocates of toleration and reform. They trampled, it is true, on the laws and liberties of the people—But theſe would eſtabliſh deſpotiſm as a principle—a deſpotiſm which no one could hope to elude, becauſe no one could determine where the ſhaft would next be aimed. Yet ſuch are the doctrines we are perſecuted for expoſing—Such are the practices it is high treaſon to determine to reſiſt, if ever they ſhould be ſubſtituted in the place of our conſtitutional proviſions—our eſtabliſhed laws and trial by impartial Jury.

Thus then the principle of this reſolution is both juſt and conſtitutional. Neither is the mode of expreſſing it indecorous, or unprecedented. It is almoſt a literal tranſcript from one of thoſe ſpeeches, which, on account of the conſtitutional doctrines they contain, have been collected together ſince the Revolution, and inſerted among the State Trials.

"Theſe

"Theſe Judges," ſays Lord Falkland, alluding to the caſe of Hampden, "have delivered an opi-
" nion ſuch as came not within their cognizance;
" they being Judges, and *neither philoſophers, nor*
" *politicians.* In which when that is abſolute and
" evident, *the Law of the land ceaſes;* and of *ge-*
" *neral reaſon and equity, by which particular laws*
" *at firſt were framed,* returns to his throne and
" government, where *Salus Populi* becomes not
" only *ſuprema,* but *ſola lex.*" [*St. Tr. Vol. I. page* 676.]

I do not ſtand here to vindicate myſelf againſt a charge of ſedition; and it would be an inſult to your underſtanding to ſuppoſe that you can conſider, for a moment, theſe reſolutions as an overt act of compaſſing the King's death; elſe it would be eaſy to apply theſe arguments to the remaining articles; and to prove that, ſo far from treaſon—ſo far from aggravated ſedition, there is not, in this whole paper any thing that can be conſidered as criminal in any degree whatever—unleſs, indeed, we are ſo ſunk in abject ſervility, that a few ſarcaſtic and intemperate expreſſions can ſubject the once free and manly inhabitants of Britain to the penalties of criminality.

But you are told, in aggravation of the ſuppoſed offence, that theſe reſolutions were entered into at a time when the maxims and meaſures they oppoſe were in contemplation of the Legiſlature.—What, Gentlemen! Did I hear the Crown Lawyers rightly? Was it really in the contemplation of the Legiſlature not only to ſuſpend the Habeas Corpus Act—(which they have ſince ſuſpended) and paſs a Convention bill (which, it ſeems, they afterwards ſuppoſed they could hang men faſt enough with-

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out)—not only "to levy unconſtitutional contributions, under pretence of benevolences," "to arm one party of the people againſt the other," and "train and diſcipline in the country bands of foreign emigrants, driven from their homes for their known attachment to an infamous deſpotiſm?"—but was it alſo in the contemplation of the Legiſlature "to people our barracks with foreign mercenaries," "to proclaim martial Law" and "to ſubſtitute the *arbitrary practices* of a Scotch Court of Juſticiary, in place of the *Engliſh Law* of trial, by ſtatutes previouſly announced, and Juries impartially ſelected?"—and, was it not time for Britons to rouſe from their lethargy, and enter their ſerious proteſt againſt innovations ſo tyrannical, and encroachments ſo deciſive?

O miſerable country, indeed, if thy legiſlature could meditate ſo many fatal ſtabs! and thy ſons can be arraigned for treaſon for crying to the paricides to forbear!

O miſerable country! whoſe rulers not only demand obedience to their laws, but implicit reverence alſo to the crude conceptions of their brains—their hints—their threats—their contemplations—the ſhapeleſs embrios of their legiſlative imaginations!

Is it not enough to enforce obedience to exiſting laws? but muſt we be indicted for irreverence to thoſe which are about to be adopted? If ſo, what oracle ſhall we conſult for our ſafety? What leſs than ſecond ſight can inſure us from the penalties of High Treaſon?

But what is the meaning of theſe terms "Contemplation of the Legiſlature?" Is Mr. Dundas the Legiſlature of this country? for he, and he only

only had the boldneſs to utter the threat which was the object of this obnoxious reſolution!

Are Mr. Pitt and his miniſterial coadjutors the Legiſlature of this country? for they, and they only had hinted at any of the unconſtitutional meaſures theſe reſolutions were intended to avert. The utmoſt, therefore, that can be ſaid in aggravation of theſe proceedings is, that the meaſures they reprobate were then in contemplation of the MINISTRY: And degraded beyond conception is the character of this country, if a jury can be found to pronounce it treaſon to reprobate, in whatever language, the intended meaſures of a Cabinet—however implicitly obeyed by the ſuppoſed repreſentatives of the people!

If then the public accuſer himſelf reſts the ſuppoſed guilt of the ſuppoſed determination of calling a Convention (for this Treaſon is made up of nothing but ſuppoſitions!) upon the hypothetical foundation that we either intended to bring about a revolution by force, or to effect our purpoſe, by diſſeminating our principles, and concentrating the public opinion, till it was no longer decent for the legiſlature to reſiſt the wiſhes of the people;—and if not only the ſtate of the evidence, but the acknowledged maxims of Juſtice call upon you to adopt the moſt favourable conſtruction, I think myſelf entitled to conclude, not only that no criminality attaches to this part of the charge; but that we are entitled to applauſe as guardians of public liberty. And I truſt you will unanimouſly agree, that if peaceful aſſemblies of the people for the purpoſes of political inveſtigation are prohibited, it will be impoſſible for a mixed conſtitution to exiſt. For as the Royal power is concen-

trated in a ſingle perſon, girt and ſurrounded by Miniſters of his own appointment; and as the ariſtocratic body is alſo intimately encorporated, if the people are not permitted to aſſociate and knit themſelves together for the vindication of their rights, how ſhall they fruſtrate attempts which will inevitably be made againſt their liberties? The ſcattered million, however unanimous in feeling, is but chaff in the whirlwind. It muſt be preſſed together to have any weight. Deny them the right of aſſociation, and a handful of powerful individuals, united by the common ties of intereſt, and graſping the wealth of the Nation, may eaſily perſevere in projects hoſtile to the wiſhes, and ruinous to the intereſts of mankind; and in the very midſt of this execrated career, exult in apparent popularity.

But political combination, among a people of bold and decided character cannot be prevented; and when *public aſſociation* is ſuppreſſed it only drives them to thoſe *private cabals*, in which projects ten thouſand times more dangerous are frequently hatched than any thing, which, in a ſociety aſſembling in the broad eye of day, could be ſuggeſted or deviſed. It is then, from being forbidden to reaſon, that men become gloomy, violent, and ferocious. Brooding over thoughts they dare not utter, a ſullen, and impatient watchfulneſs is generated, prompt to continue, and eager to ſeize the moſt deſperate opportunities of emancipation and revenge.

And will an Engliſh jury lend ~~their hand~~ themselves to produce a ſtate of ſociety ſo dangerous and ſo degraded? Will they aſſiſt in the annihilation of all that is manly in the human character? and meet

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from henceforth, in our ſtreets, the haggard eye of the coward, and the down-caſt gloomy countenance of the aſſaſſin. This you do conſent to—this you do aſſiſt, if, by the verdict of this day, you render it no longer ſafe for Engliſhmen to aſſociate, and ſeek redreſs of grievances.

What do you ſuppoſe produced the manly character of this country?—Our ſea-girt ſhores and foggy atmoſphere?—Idle ſuggeſtion!—If you would trace the real ſources of National Character, ſeek them in the inſtitutions and political maxims of the country.

The political freedom of the people—their habits of public intercourſe, and voluntary aſſociation, have hitherto been the root of all the bleſſings, and all the virtues they could ever boaſt. If you love the fruit, lay not the axe to the vital fibres. Pauſe before you ſtrike (for the arm is lifted) and remember the aweful admonition of the preſident Monteſquieu—"The Engliſh have "much reaſon to be jealous of their liberty; for "were they ever ſo unhappy as to loſe it, they "would be the moſt ſervile nation upon earth." [*Sp. L. B.* 2. *c.* 4.] And loſe it they will when juries loſe their independence and diſcernment, and ſuffer themſelves to be biaſſed by the declamations of a Crown Lawyer, or overawed by the authoritative ſophiſtry of a Judge. This is all that is left to us. The repreſentation in Parliament is already gone;—the appointment of ſheriffs is wreſted from us;—the Habeas Corpus Act is no more; and the proviſions of Magna Charta have mouldered imperceptibly away. Juries are the only reliques that remain of the temple of our ancient freedom; and when theſe ſhall ceaſe to afford their jealous protection to the people, the ground-plot

of liberty may ſtill remain; but, buried in the rank weeds of tyranny, the beauties of the edifice will be traced no more.

The aſſertion of the neceſſity, and conſtitutional right of political aſſociation having led me thus far into the written evidence, I ſhall throw together all the obſervations I have to make upon that part of the proceedings.

Of the correſpondence with the Jacobins and Convention of France, I ſhall take little notice: not one of the addreſſes produced in evidence being either prepared by me, or adopted by any ſociety of which I was a member at the time of their adoption. Certainly, however, had it fallen in my way to be conſulted upon the ſubject, while we were at peace with that country, I ſhould have ſuſpected no criminality in lending either my aſſent, or my aſſiſtance. Nay, I will even acknowledge that before the appearances of hoſtility, an addreſs to the Convention was prepared by me from the Borough Society. But in conſequence of the proclamation of November ninety-two, the Society diſperſed, and the addreſs was never ſent.

In the ſame manner I ſhall paſs over the works of Paine and Barlowe; none of which were ever diſtributed by the Society after I became a member. And as for the work of the latter author, it is one of thoſe books of which I have never read one ſingle ſentence. The Crown Lawyers, therefore, among other wonderful and original elucidations of the various ſhades and degrees of conſtructive treaſon, have to define to you the exact portion of criminality which attaches to a man in conſequence of another perſon having publiſhed a book which *he* has never ſeen.

Theſe obſervations equally apply to more than four-fifths of the written and printed evidence which has been piled before you. Of whatever

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bears date prior to the 21ſt October 1793, it is impoſſible I ſhould have had any knowledge; and of the ſubſequent tranſactions little, in proportion, is produced.

Theſe papers (ſuch as they are) have been twice produced in evidence againſt perſons concerned in their compoſition and circulation; and have been twice pronounced inſufficient for their crimination; and I make no doubt but that you participate in the indignation of my eloquent and learned Council, at ſeeing them dragged forward a *third time* to criminate an individual no more concerned in them than yourſelves. For though the Lord Chief Juſtice lays it down as a maxim that a man may be criminated by acts committed in proſecution of a conſpiracy before he became a party in ſuch conſpiracy, how I can be more deeply implicated in acts of which I never had nor could have any knowledge whatever, than the perſons by whom they were prompted, is beyond my comprehenſion.

The original declaration of the Southwark Society applies ſomewhat more directly. It is true I was preſent when it was adopted. It is not, however true, that I was one of the original founders of that Society. Of the firſt meeting, in which the Committee was appointed that brought forward this declaration, I had no ſort of knowledge. The ſecond meeting was called by public advertiſement; and I attended, and ſpoke, and in all probability voted for the declaration as others did, without critically analyzing every word in the compoſition. You have been told by the only witneſs called by the proſecutors to this part of the charge, that he is not ſure whether the cauſe of my attendance was not his calling at my houſe, informing me that a meeting of friends to parlia-

mentary reform was to be held that evening, and inviting me to accompany him to it. This was in reality the fact. He tells you alſo, that the ſpeech I there delivered was a ſtrong recommendation of peace and order in the proceedings of the friends of liberty; and ſuch as evidently proved me to have no other object in view than a reform in the Commons Houſe of Parliament. And yet the Crown lawyers would not only perſuade you that I was the original framer of that Society, but from the heedleſs inſertion of one ambiguous word (*repreſentative government*) would charge the declaration to my account as an *Overt Act* of High Treaſon.

It is true, indeed, I was, at a ſubſequent meeting, nominated one of the general committee; it is true alſo that, ſome weeks before the diſperſion of the ſociety, I was regularly enrolled in one of the diviſions: but the circumſtances I mentioned in croſs examination are nevertheleſs true: that I was not concerned in drawing the declaration; and that I was only an accidental viſitor when it paſſed: Circumſtances which it is no further neceſſary to detail, than as they are connected with the vindication of that veracity for the violation of which the ſituation I am placed in could furniſh no ſatisfactory apology.—Individuals may periſh; and others may ſupply their places; and the public cauſe receive but little injury. But he who is influenced by fear, to violate the ſacred principles of truth, ſt[illegible]at the vitals of public virtue; and commit[illegible]rreparable injury.

But [illegible] this part of the proceedings of my [illegible]tors, bear ſuch ſtrong marks of perſonal animoſity and miſrepreſentation, what muſt we ſay to thoſe circumſtances I am about to mention? — What muſt we ſay to the attempt to criminate me, not only by every act of

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every individual connected with any political ſociety, in any part of the nation!—no matter whether I had ever ſeen, or heard of ſuch individual in my life!—but to criminate me alſo by acts never adopted by any political ſociety, and which had been abſolutely rejected by means of the oppoſition they had met with from myſelf and other active members included in this indictment. The injuſtice of this proceeding is in ſome reſpects ſo barefaced as hardly to require a comment: particularly the circumſtance of producing in evidence againſt me a paper purporting to be reſolutions intended for the meeting at Chalk Farm: a paper which the very evidence for the proſecution proves that the Committee of which I was member never approved. For in the firſt place, it has been proved to be in the hand writing of a perſon who was not a member of that Committee; and in the next it is proved that theſe reſolutions never were propoſed, and that others were actually adopted. The fact is, theſe reſolutions were *unanimouſly* rejected by the Committee—not becauſe they were ſuppoſed treaſonable—(for how can it be treaſonable to quote the words of that Coronation Oath, upon which the proſecutors have laid ſo much ſtreſs in the courſe of theſe trials?)—not becauſe they were ſuppoſed ſeditious—(for how can it be ſeditious to quote an hiſtorical fact?—to remind the people of an alteration which the three eſtates of the country thought fit to make in that Coronation oath at the period of the Revolution? —For ſurely that alteration would never have been made if the words ſtruck out had not been conſidered as containing a vicious principle—And I am yet to learn that it can be a crime to warn the people againſt the adoption of a principle, which a ſolem act of the Legiſlature has declared to be vicious*!)

cious * !)—No: it was rejected becauſe it was not conſiſtent with the plans of the Society—becauſe the ſort of Convention it alluded to was ſuch as it was neither in the power, nor inclination of the Society to aſſemble!

Before I quit this ſubject, I ſhall ſingle out another inſtance from the heap that preſents itſelf of the flagrant injuſtice of theſe proceedings. A Report of a Committee of Conſtitution has been preſented upon which conſiderable ſtreſs has been laid, as ſhewing the views and objects of the Society, and of the perſons charged in this indictment in particular: although the *faithful* ſpies of the proſecutors muſt have informed them that this report was rejected by the Society, in conſequence of the determined oppoſition of Baxter and myſelf, and other falſe traitors, againſt whom they are now made charges of criminality; and another Committee was appointed to draw up, and actually did draw up and print, another report eſſentially different.

The Conſtitution thus propoſed to ſuperſede the one which our proſecutors conſider as ſo treaſonable, and which was notoriouſly, in a conſiderable degree, the production of Baxter and myſelf, never was mentioned during the whole of the trials, although printed copies of this muſt have been found

* It may be neceſſary to inform thoſe who have not read the trials that the following is the obnoxious reſolution particularly alluded to—"Reſolved, That it is the right and bounden duty of "the people to puniſh all traitors againſt the nation; and that the following words are not now a part of the oath of allegiance," to wit—"*I declare it is not lawful, upon any pretence whatever, to take "arms againſt the King!*" [See 2 Rep. Sec. Com. H. C. p. 22.] The fact is theſe words were ordered to be ſtruck out of the Oath of Allegiance, by the Convention parliament, at the epoch of that Revolution which placed the preſent family on the Throne; it being conſidered as a maxim that led to inevitable deſpotiſm.

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in the poſſeſſion of moſt of the apprehended perſons. So that no criminality being found in our own acts, we were to be tried for the crimes, (as they are called) which we prevented others from committing.

Theſe and a maſs of ſimilar circumſtances, which prove the candour with which theſe proſecutions have been conducted, I leave to ſpeak for themſelves. They are the inevitable conſequences of the ſyſtem of accumulative and conſtructive treaſon. Proſecutions for which muſt inevitably depend for their ſucceſs, not upon the principles of juſtice and rational conviction; but upon laborious efforts to confound the priſoner, and bewilder the underſtandings of the Jury.

But there are other circumſtances in this proſecution for the monſtrous injuſtice of which not even this weak apology can be made. I mean the manner in which the papers produced in evidence were ſeized, and the whole conduct of the meſſengers and Bow-Street officers relative to the execution of their arbitrary warrants.

I ſay nothing of the indignities offered to my perſon; which was ſearched and rummaged by common thief-takers, as if I had been a houſe-breaker or a high-way robber. The facts I particularly allude to, are of much more ſerious importance.

During the deſpotiſm of Charles the ſecond, when the wicked meaſures of the Cabinet drove the beſt and nobleſt patriots to form aſſociations for the purpoſe of reforming the Government, and when the perſecution of opinion had driven them from *open inveſtigation* to the neceſſity of *private cabal*, it cannot be forgotten that the Government then, as now, attempted to take away the lives of virtuous men, not for actions only, but for the private and unpubliſhed ſentiments with which they

they had amuſed themſelves in their cloſets. Warrants were accordingly granted for the ſeizure of their papers; and their *ſpeculative opinions* were produced in evidence againſt them. Yet even in thoſe times the moſt deſpotic cabinet that had ever diſgraced the annals of Britain did not leave the victims of their tyranny to the mercy of their meaneſt retainers: nor reſign every thing to the diſcretion of a few ignorant ~~runners~~, whoſe *blunders*, or whoſe *forgeries* might be equally fatal to thoſe with whoſe ſecurity they were entruſted. The papers, as may be ſeen by the trial of Sidney, were ſealed in the preſence of the perſons apprehended; and they were permitted, if they pleaſed, for ſecurity againſt inſidious practices, to put their own ſeals upon them; that they might be opened in their preſence, at the time of their examination. But had we the ſame attention? Far from it. It was in vain that I demanded the exerciſe of this precaution. It was in vain I remonſtrated that I had a right to know what they took, and to ſee that they did not exceed their authority. I was hurried away by one of the meſſengers as ſoon as he had conveyed a few inſignificant ſcraps of paper out of ~~my~~ pocket into his own; the papers were bundled away without any precaution whatever; and were ſcattered in the utmoſt diſorder, about the Privy Council and adjoining offices; where I afterwards ſaw them, mingled with others with which I had no acquaintance.

The conſequences have been ſuch as might have been expected. A letter, the direction of which has been torn away, (by what *accident*, or by what *deſign* it is not eaſy to conceive) ~~is~~ ſworn to have been found in ~~my~~ pocket by the Meſſenger *Tims*:—a letter which for any evidence to the contrary, ~~may~~ have been written to himſelf, or may be

be a mere forgery of ſome underling in office:—a letter, which at any rate, I never ſaw; which is written from a perſon I never heard of, and a country where I never had a correſpondent.* In the meanwhile another letter, or commencement of a letter—for it was never finished—nor ever likely to have been either finished or sent, which certainly never was out of my poſſeſſion, till ſeized by the Meſſengers, is ſworn to have been found upon Richter, by whom it was never ſeen. Nay what is more extraordinary, the Meſſenger, Tims, who ſwears that he found this laſt paper upon Richter, *was not the perſon by whom it could have been found at all*: for it was in my ſtudy, in the back houſe, where Tims never went; he having (in ſpite of my remonſtrance) hurried me away before the ſearch in that houſe began.

Viſionary, indeed, is the boaſted ſecurity of Britons, if, upon any pretence whatever, papers can be ſeized, and brought in evidence againſt them in ſuch a manner, under circumſtances ſo ambiguous; thus open to forgeries and practices of the baſeſt kind; and to blunders, which may be equally fatal.

Nor can I take my farewell of theſe Gentlemen Meſſengers—theſe deſpotic retainers of the Cabinet, without ſome obſervations on a ſpecies of teſtimony, which, under a virtuous modification of Government, never could be tolerated, becauſe while it is ſo, no degree of innocence can be ſecure. I allude particularly to the teſtimony of Tims, who, after having declared in his firſt examination, that my conduct was the very reverſe from ſhewing any deſire of reſiſtance or eſcape, comes forward a ſecond time to depoſe that, although he had previouſly warned me, that whatever I ſaid would be repeated to the Privy Council, and brought forward againſt me, yet I had made

* Mentioning the subject of this letter, to John Richter, some weeks after the acquittals, he exclaimed, with some astonishment "and did Tims swear that he found that letter in your pocket? "The lying rascal! he must have found it, or rather some body else must have found it under the tyles of my house, for it was a letter sent to me, & which I had put out of the way I thought of being seen by any one.

made him ſo far my confidant, as to tell him that "if I had been fourteen days longer at liberty, "I ſhould have been ſurrounded with ſo many "friends, that it would have been difficult to ap-"prehend me."

So abſurd a forgery is unworthy of ſerious diſavowal; but if ſuch teſtimony is admiſſible, which however falſe, can never be contradicted, upon what ſort of tenure does every Briton hold his life, ſhould the *ingenuity* of theſe ſervile dependants be commenſurate with their *zeal?*

The man who is at liberty, can ſelect his ſociety; and if he truſts himſelf alone with a ſtranger of ambiguous character, or ſubjects himſelf to the miſrepreſentations of a perjured dependant, he muſt abide the conſequences. But Diſcretion is as impotent as Innocence, to guard againſt the *inventive* malice of the being, who, armed with the warrant of a Privy Council, drags the victim from his home, and excluding him from all choice of ſociety, and all guardianſhip of diſintereſted witneſſes, can afterwards come forward in a Court of Juſtice, and deprive him of his life by ſwearing to circumſtances, which, though they never occurred, are incapable of contradiction.

But it is vain to cavil about particulars. If looſe converſations are once admitted as evidences of Treaſon, pretences can never be wanting to deſtroy the moſt innocent and virtuous of mankind!

Yet to the diſgrace of an Engliſh Court of Juſtice—to the ſcandal of the Britiſh character—to the indelible reproach of that Conſtitution, which thoſe who have violated every principle of it, continue ſo extravagantly to applaud—at the cloſe of the eighteenth century, in a proſecution for

Treaſon,

Treaſon, is the feeble maſs of accumulative and conſtructive charges, bolſtered by evidence of this contemptible nature.

For this purpoſe every tavern and coffee-houſe has been haunted, into which (rare viſitant as I have been to places of that deſcription) I may occaſionally have put my head. My hours of conviviality have been attended by ſpies and ſycophants, my doors beſet with eavedroppers, my private chambers haunted by the familiar ſpirits of an infernal Inquiſition, and my confidential friends ſtretched on the rack of interrogatory, in order to extort from them the converſation which in the unſuſpecting hours of ſocial hilarity may have been uttered at my own table.

But it will not be believed—poſterity will not credit the monſtrous tale—that, unſatisfied with former arts—deſpairing of ſucceſs, yet eager in the ſcent of blood, four or five days only before my trial, the agents of this wicked proſecution ſhould have ſent, in the name of the Privy Council, for a perſon known to be one of my moſt familiar friends—known to be one of the witneſſes ſubpœna'd on my behalf—known, alſo, to have been entruſted confidentially by my family, and my Solicitor in the management of my defence; and after clapping a Teſtament to his lips (let Mr. White or Mr. Ford contradict me if this be falſe!) ſhould interrogate him on the mode of my intended defence, on the evidence I had to contradict particular charges, and the ſubjects of thoſe private converſations which, in the unſuſpecting confidence of our ſouls, we had frequently indulged together.

O Sejanus and abhorred Rufinus, ye tyrannic ſcourges of the Roman world! why are ye hand-

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ed down in the page of infamy as monſters of the human race?—why boils our blood with indignation, at the recital of your baſe artifices? Britain has, alſo, its Sejanus in the preſent day—Its baſe Rufinus and his herd of perjured ſpies and inquiſitors; and in this degenerate country, as in the Roman empire, the blood-hounds of power can hunt the devoted patriot from the banquet to the cloſet, from the cloſet to the public theatre, and from the public theatre to the retreat of private friendſhip, to drag forth the ſecrets of his heart, and the levities of his imagination, and pervert them to his deſtruction.

O Britain! Britain! while thy pimps and perjurers, Old Bailey Solicitors, and the ſweepings of the ſtews, boaſt of "the confidence of thy Gentlemen High in Office!" while innocence and virtue ſtand trembling for their lives before them, what muſt be the feelings of thy once generous ſons?—and how muſt their tongues henceforward faulter when they talk of their liberties and their charters?

But the inquiſition has not ſtopped even here.—Unpubliſhed letters are dragged forth, from the corners of my ſtudy, where they had mouldered in forgetfulneſs. The watchword has been tranſmitted to diſtant counties; and pious prieſts, pettifogging lawyers, and illiterate apothecaries, the pigmy gentry of obſcure towns and villages, have been aſſociated for months in dark conſpiracy againſt a friendleſs, powerleſs, unconnected individual; have intercepted his private correſpondence, and broke into the houſes of his neareſt relations for the letters of confidence written by him to a brother-in-law, and by his wife to her own brother.

Yet

See Preface to Godwin's Ghost.

Yet ſee the pitiful figure which, after all this inquiſitorial induſtry, the evidence for the proſecution makes. The indecorous expreſſions charged againſt me upon Hardy's trial the proſecutors have been obliged to abandon, becauſe they knew we could diſprove them; and a new batch of forgeries, ſtill more improbable, are brought forward, that they might attack me in quarters where they ſuppoſed us to be leſs prepared. Theſe forgeries excepted (which ſcarcely deſerve reply) what does the whole amount to? I am convicted, it is true, of having uſed the word "Citizen," of boaſting of the rapid circulation of three ſongs, which the proſecutors have talked a great deal about, but from which they have not thought fit, on any of the trials, to quote one ſingle line: though the Counſel for the priſoners have called upon them ſo to do. They have proved me alſo, to be deſirous that an honeſt countryman, my brother-in-law, ſhould lay aſide his diſtant reſpect, ſpeak his mind openly, and behave towards me upon the footing of "equality and perfect "freedom."

They have proved alſo, by an unpubliſhed letter, upon which Mr. Serjeant Adair has laid particular ſtreſs, that I had opinions about the ſtate of parties in Paris very different from thoſe which are propagated by the agents of Government; and that though I abhorred the dagger of the Maratiſts, I believed the Mountain to be the party beſt calculated to manage the helm in that ſtorm by which France was on every ſide aſſailed; and that I even had not quite ſo bad an opinion even of Marat, as many people had, and as I had once entertained myſelf. They alſo, perhaps have proved, that I am, in private ſpeculation, a *Republican*. But

if you put this together with the evidence that has been diſtinctly given of my ſentiments and conduct in the ſociety, and my invariable maxims that "truth and reaſon were the only weapons of the "friends of liberty"—and that "ſpeculative opi-"nions ought never to be enforced by Violence," I do not ſee what tendency ſuch private opinion can have to ſupport the charge of treaſon.

I do not vindicate the whole of that letter. There are parts of it which prove at once the irritation and the aggravations under which it was written: parts which my cooler judgment does not approve. But who expects to anſwer at the bar of the Old Bailey for every intemperate expreſſion he may utter, nay, every crude imagination that in the revolution of opinions may paſs acroſs his brain. But as for the paſſage upon which Mr. Adair has laid ſuch peculiar emphaſis, I both avow, and approve it. I do believe that the people of America—in many parts, at leaſt, have "too much veneration for property—"too much religion—and too much law." I think it is having too much law to be encumbered with one fourth of the intricacy, complication, and uncertainty in which the law of this country, for example, is involved. And in many of the provinces of America, I underſtand, they are encumbered with more than half. I think there is too much religion in a country, when a man taking a ride on a Sunday afternoon is to have the hue and cry raiſed to bring him back, as a prophaner of the Lord's day; and when a huſband can be made to do pennance in a white ſheet, for ſaluting his wife in the ſtreet, upon meeting her after a ſeven years abſence. Yet ſuch is the religion of ſome of the

American

American provinces. And as for the other member of the ſentence, I believe all veneration for property, in the ſenſe I have uſed the phraſe, is vice—is deſtructive to the morals and intellects of Society—Is the ſource of all that oppreſſive rapacity and unfeeling avarice which produce ſo many vices in one deſcription of men, and ſo much miſery in another.

But when I ſay this let me be underſtood. The perſon I was writing to knew my heart, and would have required no commentator. By veneration for property I mean that habit, much too prevalent in all countries—and, if I have been rightly informed, particularly prevalent in America, of reſpecting mankind in proportion to their property—looking up to *affluence* as an honourable diſtinction, inſtead of proportioning our eſteem to the talents and virtues of mankind. This you have been diſtinctly told, by one of the witneſſes, is the interpretation (from the doctrines he knew me to be in the conſtant habit of upholding) his mind would have afforded; nor can malevolence itſelf, after the evidence that has been given, put any other conſtruction upon the ſentence. For call to mind my whole conduct, in and out of the Society, ſuch as it appears from the uniform teſtimony of all but the ſpies by profeſſion, and ſee what part of it can juſtify the malignant and outrageous comments of the Crown lawyers?—Call to mind the teſtimony of thoſe reſpectable characters who having known me the moſt intimately, are moſt likely to be acquainted with my real ſentiments and feelings. Remember the colours in which they have deſcribed my character—the hiſtory they have given of my life! and then aſk your own hearts, Is this the compoſition—are theſe the ſenti-

ments—the qualifications of an incendiary?—an apoſtle of plunder, and its inevitable concomitant maſſacre?—Aſk your own hearts alſo—What innocence, what virtue can be unimpeached if it is to be tried, as the Crown lawyers would have you try me and my coadjutors, by the partial ſelection of a few ambiguous phraſes? Where is the man whoſe converſation and ſentiments never lay open to miſrepreſentation? Where is the man who never, in the gaiety of youthful paſſion, gave utterance to an idle expreſſion, or drank a ridiculous toaſt, which if gravely repeated, with the colourings of a malignant commentator, might be tortured into evidence of intentions which his ſoul would have revolted at? And where is the man (can any one who hears me anſwer to the deſcription?) who never in confidental correſpondence, to a friend who knew him too well to be capable of miſunderſtanding him, expreſſed himſelf in terms which if read in a court of Juſtice with the malicious interpretations of a public proſecutor, might convey a meaning very different from what he intended?

Theſe obſervations will equally apply to another paſſage in which I avow myſelf a "Sans Culotte:" a phraſe which Mr. Serjeant Adair has thought fit to define in terms the moſt groſs and monſtrous that the imagination even of an aſſaſſin could have ſuggeſted. To what authority he referred for this definition he has not informed us: but as the term had been defined by myſelf, in the Lecture, which is publiſhed, "on the Moral Tendency of a ſyſtem of ſpies and informers," it would have been, at leaſt, candid to have quoted this paſſage to ſhew the real ſenſe in which I was in the habit of uſing it. The definition then is as follows:—

"I am

" I am a SANS CULOTTE!—one of thoſe " who think the happineſs of millions of more " conſequence than the aggrandiſement of any " party junto! or, in other words, an advocate for " the rights and happineſs of thoſe who are lan- " guiſhing in *want* and *nakedneſs!* for this is my " interpretation of a *ſans culotte:—the thing in* " REALITY *which Whigs pretend to be!*" [*P.* 34. *Ed.* 3. *p.* 20. *Ed.* 4.]

I have dwelt upon this ſubject with ſome anxiety, not becauſe it does in reality form any ſubſtantial part (for ſubſtantial part there is none) of the charge exhibited againſt me; but becauſe acquittal could afford me no ſatisfaction; if thoſe who diſmiſſed me from this bar, freed from the ſuſpicion of treaſon, did not diſmiſs me, alſo, freed, in their minds, from the imputation of feelings and ſentiments that would rank me with the plunderer and the ruffian.—Death in the cauſe of liberty and virtue I flatter myſelf, I am prepared to encounter; but I am not prepared for the ſtill heavier calamity of ſupporting exiſtence under that accumulation of calumny and miſrepreſentation which has been heaped upon me by the authors and conductors of this proſecution.

One word upon the ſubject of my Lectures; and I have done. Though the whole teſtimony of the ſolitary witneſs, out of the thouſands that attended, who has been brought forward, might have been contradicted by the moſt reſpectable teſtimonies, if the clear detection of this wretch in two diſtinct perjuries, and an attempt at ſubornation of perjury, had not rendered it ſuperfluous, yet I am convinced the *crime* of giving political lectures is in reality my principal offence.

There was, it is true, *no treaſon* in theſe Lectures, but there was that which was infinitely more offenſive to the men in power—a bold and open inveſtigation of thoſe meaſures by which they are plunging the country in irretrievable deſtruction.

When they cruſhed the ſocieties for political debate, I was the only individual who openly reſiſted that arbitrary meaſure. I was the only individual who, for two years, openly ſtruggled for the reſtoration of that free diſcuſſion ſo eſſential to the preſervation of liberty, but ſo dangerous to a corrupt and vicious Adminiſtration; and when I found it impoſſible to communicate my own reſolution to the minds of others, I ſtepped forward to ſupply the deficiency to the utmoſt of my power, and to revive, in another ſhape, that inveſtigation which others had ſo timidly abandoned. This is the reaſon why they ſeek my deſtruction—this is the crime I have committed.

Of the manner in which this crime, as it is called, has been perpetrated, you have heard much on the part of the proſecutors; and much might be ſaid in reply. It is not neceſſary, however, that you ſhould depend either upon their repreſentations, or upon mine. Some of the Lectures are in print; and many quotations might be made to prove their general object and tendency to be the very reverſe of what the proſecutors and their perjured ſpy have repreſented. I ſhall content myſelf however with one.

It is from the firſt lecture, in which, after dwelling for ſome time on the neceſſity of inveſtigating with temper and moderation the grievances under which we labour, I thus proceed—

"There is alſo another—better motive than "that of prudence, to prompt us to this modera-

"tion

" tion in our deportment---Benevolence!---the
" kind and candid feelings of the heart! without
" which a pure and enlightened freedom never can
" be enjoyed, never can be underſtood, Anarchy
" may rage where aſperity of ſoul triumphs in all
" its bitterneſs, but where perſonal hatred, and
" the burning deſire of vengeance uſurp dominion
" over the hearts of men, genuine liberty, and
" the tranquil happineſs which liberty ought to
" ſecure to us, never can be hoped. Reaſon
" and the pure ſpirit of philoſophy, are eſſen-
" tial requiſites to this ſtate of ſocial inde-
" pendence, and theſe will teach us to conſider,
" that every action, however hoſtile to the ſacred
" cauſe we are purſuing, is the unhappy conſe-
" quence of errors reſulting from the circum-
" ſtances by which the actor has been ſurrounded;
" and that, conſequently, inſtead of ſtirring up the
" gloomy paſſions of the ſoul, we ought to pity
" the inſtrument while we redreſs the evil."——
[*Lett. Spies & Informers. p.* 15. 3*d Edit. p.* 12 *of* 4*th.*]

Such are the ſentiments which in the *opinion* (or rather the *language*) of our proſecutors are " calculated from their very extravagance to " catch the attention of the audience---inflame " their minds, allienate them from the laws and " conſtitution of their country, and habituate " them to principles of ſedition and rebellion." [*Rep. Sec. Com. p.* 22.]

In ſhort the whole of this *collateral* Charge, reſolves itſelf into the ſimple fact of having aſſembled people together for the purpoſe of diſcuſſing before them the principles of Government and the meaſures of the Adminiſtration. But I truſt I have already proved, in a former part

of this defence, not only that it is, at all times a right, but that, in particular ſituations, it is the bounden duty of the people to aſſemble for the purpoſe of ſuch diſcuſſion.

If this be admitted (and I ſhould be glad to hear the arguments by which it can be confuted) who will venture to affirm that this is not a time for the exerciſe of this right?

I will not dwell upon the calamities of the ſtarving multitude. They are written too legibly in the countenances of friendleſs widows and orphans in every manufacturing town in the nation—The men, it is true, have met a *milder fate* ---They have eſcaped the laſt extremities of domeſtic miſery, by laying down the intolerable load of exiſtence among the marſhes of Flanders, and the dykes of Holland.

I ſhall dwell only upon that flagrant departure from the letter and ſpirit of our Conſtitution, and the genuine principles of political Juſtice, by which theſe calamities have been produced. This is of itſelf ſufficient to prove not only the duty--- but the *preſent neceſſity* of political enquiry. And upon this foundation alone my vindication might have been reſted; unleſs, indeed, as the conduct of our proſecutors ſeems moſt openly to affirm, *loyalty* (that is to ſay *reſpect for the laws*) conſiſts only in attachment to the regal and ariſtocratical branches of the Conſtitution, and all vindication of the genuine principles of the Democratic branch (which has hitherto been regarded as *the moſt valuable of the three*) is to be branded as rebellion and High Treaſon.

For, alas! to what a miſerable ſhade, or ſhadow of a ſhade is the repreſentation of ſeven millions and a half of human beings reduced, when

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out of 513 members of the Democratic aſſembly, as it is called, 306, that is to ſay a decided majority of 99, are returned by the patronage of the Treaſury and 162 individuals; out of which, to aggravate this outrageous inſult, 167 are abſolutely nominated by 71 Peers, who by the Conſtitutional jealouſy of our anceſtors, and the annual reſolution of the Houſe of Commons, are precluded from "any right to vote in the election of any "member to ſerve in Parliament," and are declared guilty of "a high infringement upon the "liberties and privileges of the Commons of "Great Britain, if they concern themſelves in the "Elections of Members to ſerve for the Com-"mons in Parliament." [*Petition of the friends of the people, p.* 8.]

I have ſtated the number of patroniſed members from the pamphlet publiſhed by the Society of the Friends of the Friends of the People—but it muſt immediately occur to you that the evil has been conſiderably increaſed ſince that publication. Even while I have been ſhut up in rigorous confinement for the horrible High Treaſon of aſſociating for Parliamentary Reform, and delivering lectures on the corruptions and abuſes of our Conſtitution, a freſh batch of Borough proprietors has been decorated in the *borrowed plumage* of nobility, that they might increaſe the *fixed* majority of the Miniſter, by their *votes*, in the houſe of Peers, and by their *influence*, in the Houſe of Commons.

Such, then, is the ſtate of *what is called repreſentation* in this country, that if it ſhould ſuit the views and intereſts of 162 rich and powerful individuals to unite their influence, they *might*, without a ſtruggle—nay, without even a perceptible alteration

alteration in the ſemblance of our Government, overturn the Conſtitution, eſtabliſh a perfect oligarchy, and render themſelves completely maſters at once of the prerogatives of the Crown, and the property, lives, and liberties of their fellow citizens. And is this the Conſtitution of England? —Is this the triple balance, the boaſted equipoiſe of King, Lords, and Commons?---Is this a time when enquiry ought to be cruſhed, and Engliſh juries to be called upon to puniſh, like the vileſt ruffians, thoſe who ſhall labour to enlighten thier fellow citizens, and rouſe them to a ſenſe of their ſituation?

Remember, Gentlemen, the aweful---the prophetic words of that philoſopher I have ſo often quoted---"As all human things have an end," ſays he, "the ſtate we are ſpeaking of will loſe its "liberty. It will periſh. Have not Rome, "Sparta, and Carthage periſhed?"---Let it be remembered, that Rome and Sparta ſtill preſerved the *exterior form* of their free conſtitutions, (particularly the former) even while groaning beneath the moſt abject deſpotiſm.---"Have not Rome, "Sparta, and Carthage periſhed? It will pe-"riſh"---When, Gentlemen? When the door is opened for univerſal ſuffrage?---When meetings of delegates, from a few popular ſocieties, attempt to "*overawe* the legiſlature" by publiſhing their ſentiments on Parliamentary Reform?---When Lectures and Debating Societies are opened to diſcuſs the meaſures of government? No. But "it will periſh when the legiſlative power "ſhall be more corrupt than the executive." [*B.* xi. *c.* 6.]

Gentlemen---Mine is not a ſituation to hazard bold propoſitions.---To provoke one prejudice---

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to inflame one ungentle paſſion, may be fatal, perhaps, to an individual, whoſe brain is yet working for the welfare of mankind, and whoſe heart is vibrating for all that is dear in ſocial life!---But truth and conviction are ſtruggling at my heart, and I muſt acknowledge---Such to me appears the melancholy condition of Britain at this hour. The fulfilment of the fatal propheſy ſeems faſt approaching; and I own I have contemplated the proſpect with a degree of anguiſh, which, from the warmth I have expreſſed it with, and the activity with which I have laboured to avert the cataſtrophe, ſeems at once to have marked me as a victim to the rage of my oppreſſors, and laid me open to the *miſrepreſentations* of their perjured agents. But that I ever conſpired, or connived at any conſpiracy for purpoſes of violence, plunder, or inſurrection, is a calumny ſo black and infamous as could have entered the imagination of none but the moſt practiced aſſaſſin.

Such, Gentlemen, are the *real motives* for this proſecution---and ſuch are the *pretences* upon which I have been ſeven months locked up in cloſe confinement, excluded from every intercourſe of friendſhip and affection; and for a part of that time prohibited even the uſe of pen and ink, and the amuſement of books:---ſuch are the pretences upon which, for five diſmal weeks, I have been deſtined to the vileſt dungeon of Newgate---a miſerable hole almoſt impervious to a ray of light; and in which a few diurnal ſprinklings of vinegar ſupplied the total abſence of circulating air—a charnel houſe, whoſe ragged walls, and old hereditary filth might perſuade the wretched inhabitant that he was already buried; and which was indeed, till I was thrown into it, the common receptacle

ceptacle for the putrid carcaſes of felons, who died beneath their load of fetters. Such alſo are the pretences for which every tender relative and connection has been ſtretched, month after month, upon the lingering rack of terror and apprehenſion; and for which the family that uſed to ſubſiſt in comfort by my labours, has been doomed to moiſten with their tears the precarious bread of charity.

From the fangs, however, of this perſecution, I am at laſt permitted to call upon you---and I do call upon you with confidence, to emancipate me by your verdict. I call upon you in the aweful name of Juſtice, to reſtore me to the ſphere of my active uſefulneſs---to my public and private duties—to my relatives---to my friends---to the aged mother who has been ſo long deprived of her only protector---to the wife who ſtretches forth her arms to receive her ſlandered huſband, and the infant yet unconſcious of my unmerited ſufferings. To theſe I call upon you, by the ſacred love of Juſtice to reſtore me; and by your verdict to proclaim to the world the honeſt conviction of your minds, that though my conduct may ſometimes have been marked by the levity or the intemperance of youth, my heart is untainted by any crime!

END OF THE DEFENCE.

Addreſs to the Court after the Verdict; with the Reply of the Lord Chief Baron, from the ſhort-hand Notes of Mr. Ramſey.

J. Thelwall. "My Lord and Gentlemen of the Jury, if any thing could increaſe the affection I bear my country, it certainly muſt be the circumſtance of this acquittal. If a plain, ſimple, unconnected man, with neither rank, fortune nor connections to recommend him, after having laboured twelve months under all the calumny which a particular ſet of party writers could pour upon his head—after having felt all the irritation of mind, and committed many of the imprudences which have reſulted from thoſe aggravating circumſtances—after lying ſeven months in priſon, without any opportunity to vindicate himſelf, and whoſe friends could not dare to vindicate him, for fear of falling under ſimilar predicaments themſelves—if under all theſe circumſtances, after the diligent collections of this maſs of evidence, (a great part of which, I own, appeared to me not connected with my caſe—but I ſubmitted to the Judgment, of the Court)—if under all theſe circumſtances, the accumulated weight and preſſure laid upon me was not ſufficient to bear down and cruſh ſo inſulated and unprotected a man, there muſt be ſomething in the diſpoſitions of the people of Great Britain—ſomething eminently virtuous in this country, which every Briton muſt reflect upon with pride, and which muſt render every individual ſtill more anxious to promote its happineſs and proſperity.

"My Lord and Gentlemen of the Jury, I will confeſs to you that part of the charge ſo candidly delivered by the Court, which ſays there are ſome circumſtances in my conduct

conduct that may require explanation, is founded in truth: though I proteſt in the ſight of my country, and call upon that poſterity whoſe applauſe I hope to obtain, and whoſe happineſs I have anxiouſly laboured to procure, to bear witneſs for me that I never was actuated by one vicious motive in any part of my political conduct, however provoked by the inſults and indignities that may have ſtimulated a too irritable diſpoſition. I call upon that country, and upon that poſterity, to regard either with deteſtation or affection my memory hereafter, as what I now ſay ſhall be found true or falſe—that no part of my political conduct has ever had any actuating motive but a deſire to promote the welfare and happineſs of my fellow creatures, by peaceable means, by reaſon alone; and that there ſtands not an individual in this Court, there exiſts not an individual in this country, or in the univerſe, who has blended ſo much activity with ſo anxious a deſire to prevent all violence. Not only have I forborne all perſonal concern with violence, or plans of myſelf; but a great part of that activity which I have ſo pompouſly and ſo ridiculouſly held out in a very fooliſh and very incoherent letter, (which I never ſent, which I never read after I had written it; and which, I am ſure, though there might be an intemperate moment in my life when I wrote it, I never ſhould have read without committing it to the flames)— a great part of that activity, which I have there deſcribed in bombaſtic language, has been exerted in preventing the Society with which I have been connected, from being led by ſpies and informers (by the Taylors and the Lynams who had inſinuated themſelves into it for purpoſes of the blackeſt treachery) into ſchemes of raſhneſs and violence —in preventing them from being ſeduced by ſuch beings into the ridiculous project of procuring arms, and exchanging the artillery *(holding up a pen)* which you have been

been told in evidence is the only artillery I ever meant to make uſe of, for pikes and guns, and all thoſe inſtruments of deſtruction, which I hope, one time or other, and anxiouſly believe, will be entirely thrown aside from all ſociety, and no longer be permitted to make the wife a mourning widow, and the orphan babe an outcaſt from ſociety. To enter into particulars of explanation would be improper in this place, I ſhall ſeize, therefore, an early opportunity of ſubmitting to the public a full explanation of my conduct—"

Lord Chief Baron MACDONALD. "Mr. Thelwall, I muſt remind you, that in the caſe of Mr. Holcroft the Court were of opinion that it was not proper to hear any ſuch declaration, at the ſame time a little warmth of temper having been aſcribed to you in evidence, I felt a great reluctance to ſtop you; I am ſure you will not treſpaſs upon the indulgence."

J. THELWALL. "My Lord, I was juſt ſpeaking the laſt ſentence I meant to deliver, and declaring that I ſhould ſeize another opportunity of ſubmitting (*temperately*, I hope, I am ſure *truly*) to the public, a juſtification of my conduct. At preſent it would be impertinent; and therefore I take leave of the Court and Jury, returning them my moſt ſincere thanks for the anxious attention they have paid to this trial."

Lord Chief Baron Macdonald—"It perhaps never happened before, in any judicial proceedings, that Juries were called upon to exerciſe ſo ſevere a ſervice; and, therefore, that great attention muſt be a great ſatisfaction to you and to the public. And permit me to ſay, now you are *acquitted in that moſt reputable of all manners*, by the verdict of an attentive Jury, I wiſh you, I give it you as a piece of advice, to avoid raſhneſs, even in the purſuit of objects that may appear to you to be good; and that you would

would profit by what has now paſſed, and leave the Conſtitution of the country whole and well as it ſtands at preſent. Before you take any meaſures, however good they may appear to you, and before you enter into combinations with others, I think you may derive a uſeful leſſon from it: and I hope that appeal you have now made, will not be made in vain, to the whole context of your future conduct."

*** I have reprinted this Addreſs and Reply for the purpoſe of marking the very different light in which the ſame facts may be viewed by the leaders of factious aſſemblies and even the moderate and conſiderate part of their own agents. The Lord Chief Baron tells us, "we are acquitted in *the moſt reputable of all manners*;" but the miniſterial leaders in the Houſe of Commons ſay we are "*white-waſhed felons!*" and their echoes in the Houſe of Lords declare that the verdicts of "attentive Juries" cannot free us from "the imputation of *moral guilt!*"

Before the trial by Jury had been thus wantonly inſulted, would it not have been well for the conſpicuous members of the legiſlature to have conſidered whether they were likely to increaſe the public reſpect for their own functions, by outraging, in ſuch a manner, that deareſt and moſt ſacred of all the inſtitutions of this Country?

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